

**Appendix A. Notice of Preparation and Comment Letters**

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**NOTICE OF PREPARATION AND NOTICE OF SCOPING MEETING**  
**Housing and Community Investment Study Program Environmental Impact Report**  
**City Project Number: PHG 20-0028; PHG 20-0029; PHG 20-0030**

In implementing its duties under the California Environmental Quality Act (CEQA), the City of Escondido (City), serving as lead agency, intends to prepare a Program Environmental Impact Report (PEIR) for the proposed Housing and Community Investment Study (Housing Study or project), which would identify the City's housing needs and establish clear goals and objectives to inform future housing decisions. In accordance with Section 15082 of the CEQA Guidelines, the City has prepared this Notice of Preparation (NOP) to provide responsible and trustee agencies with sufficient information describing the proposed project and its potential environmental effects.

As specified by the CEQA Guidelines, the NOP will be circulated for a 30-day review period from **February 11, 2021, to March 12, 2021**. The City is interested in the input and/or comments of public agencies regarding the scope and content of the environmental information that will be studied in connection with the proposed project. Public agencies may need to use the PEIR prepared by the City when considering applicable permits or other approvals for the proposed project. The general public is also encouraged to provide input on the environmental issues that will be evaluated.

Please note that, due to the time limits mandated by state law, your response regarding the NOP for the project must be sent at the earliest possible date but **no later than 5:00 p.m. PST on March 12, 2021**. Please send your response to the Escondido Planning Division, c/o Darren Parker at the City of Escondido, Planning Division, 201 North Broadway, Escondido, California 92025, or by email at [dparker@escondido.org](mailto:dparker@escondido.org). As part of the NOP process, the City is also holding a public scoping meeting to receive comments, as further described in this NOP.

**Lead Agency:** City of Escondido, Planning Division of the Community Development Department

**Project Title and Project Applicant:** Housing and Community Investment Study (Housing Study), City of Escondido

**Project Location:** The City is in northern San Diego County, approximately 30 miles north of Downtown San Diego and 18 miles east of the Pacific Ocean (Figure 1, Regional Location). The City is bounded to the north by the unincorporated San Diego County communities of Valley Center and Hidden Meadows, to the west by the City of San Marcos, to the south by Hodges Reservoir and the City of San Diego, and to the east by unincorporated San Diego County. Interstate 15 bisects the City in a north–south direction, and State Route 78 transitions from freeway to surface streets in an east–west direction through the City. Two geographic areas, the City's corporate limits and its sphere of influence, are within the planning area covered by the proposed project, which are depicted on Figure 1.

The proposed East Valley Specific Plan Area is in central Escondido, immediately adjacent to and east of downtown, and generally bounded by Escondido Creek to the north; Harding Street to the east; Grand Avenue and East 2nd Street to the south; and North Hickory, South Hickory, and North Fig Streets to the west. It is just east of the former Palomar Health Downtown Campus. The East Valley Specific Plan Area is adjacent to a variety of neighborhoods: Downtown Escondido to the west, residential neighborhoods to the north and south, and large commercial shopping centers to the east.

**Description of Project:** The Housing Study would identify the City's housing needs and establish clear goals and objectives to inform future housing decisions. The Housing Study would be made up of the following three components: Housing Element Update, Sector Feasibility Study, and East Valley Specific Plan.

### **Housing Element Update**

The Housing Element is one element of the City of Escondido General Plan. The City is required to ensure the availability of residential sites at adequate densities and appropriate development standards to accommodate its fair share of the regional housing need, also known as the Regional Housing Needs Assessment (RHNA) allocation. The San Diego Association of Governments is responsible for oversight of the RHNA process in the San Diego region. The City's RHNA allocation for the 2021–2029 planning period is approximately 9,600 housing units, which is broken down by income category to accommodate the estimated growth need at various income levels. Upon adoption of the RHNA plan, cities and the County of San Diego are required to update their General Plans, Housing Elements, and Zoning Codes to accommodate the housing unit allocation.

The Housing Element Update would allow the City to assess current conditions; plan for future conditions; and advance a set of programs to develop, conserve, and maintain fair housing choices for current and future residents. The Housing Element Update would also include an Adequate Sites Inventory that would demonstrate that there are enough sites within the City boundaries to accommodate the RHNA allocation.

### **Sector Feasibility Study**

A Sector Feasibility Study is a residential sector housing market study that offers a general framework for defining realistic goals for the preferred housing market outcomes. The Sector Feasibility Study would identify information and assess if, and to what degree, housing development is financially/economically feasible under rising construction, land, and regulatory costs. The analysis of different development types and densities would enable the City to consider its various regulatory and non-regulatory approaches to accommodating the marketplace and how to treat programmed Housing Element Update implementation.

### **East Valley Specific Plan**

As a part of the Housing Element Update, the City will implement a rezoning program. The City is preparing a new East Valley Specific Plan, which would focus growth and increase density in the new East Valley Specific Plan Area.

The goal of the proposed East Valley Specific Plan is to encourage new housing opportunities, improve economic vibrancy, and allow for flexibility in use and implementation as the East Valley Specific Plan Area changes over time. The proposed land uses are shown on Figure 2, East Valley Specific Plan Proposed Land Use Plan. The land use plan would focus on maintaining existing uses, such as general commercial, while clustering them into different areas to create a more cohesive pattern and design. It would also allow for a variety of residential uses by designating areas for Mixed Use and Urban Residential IV/V (21–30 dwelling units per acre) uses.

The proposed East Valley Specific Plan would incorporate a dynamic mix of land uses, ensuring a variety of residential options, linked together through safe streets and a business corridor. The proposed East Valley Specific Plan would address the following topics: Land Use, Parks and Public Realm, Mobility, Public Service and Infrastructure and Development Standards, and Design Guidelines.

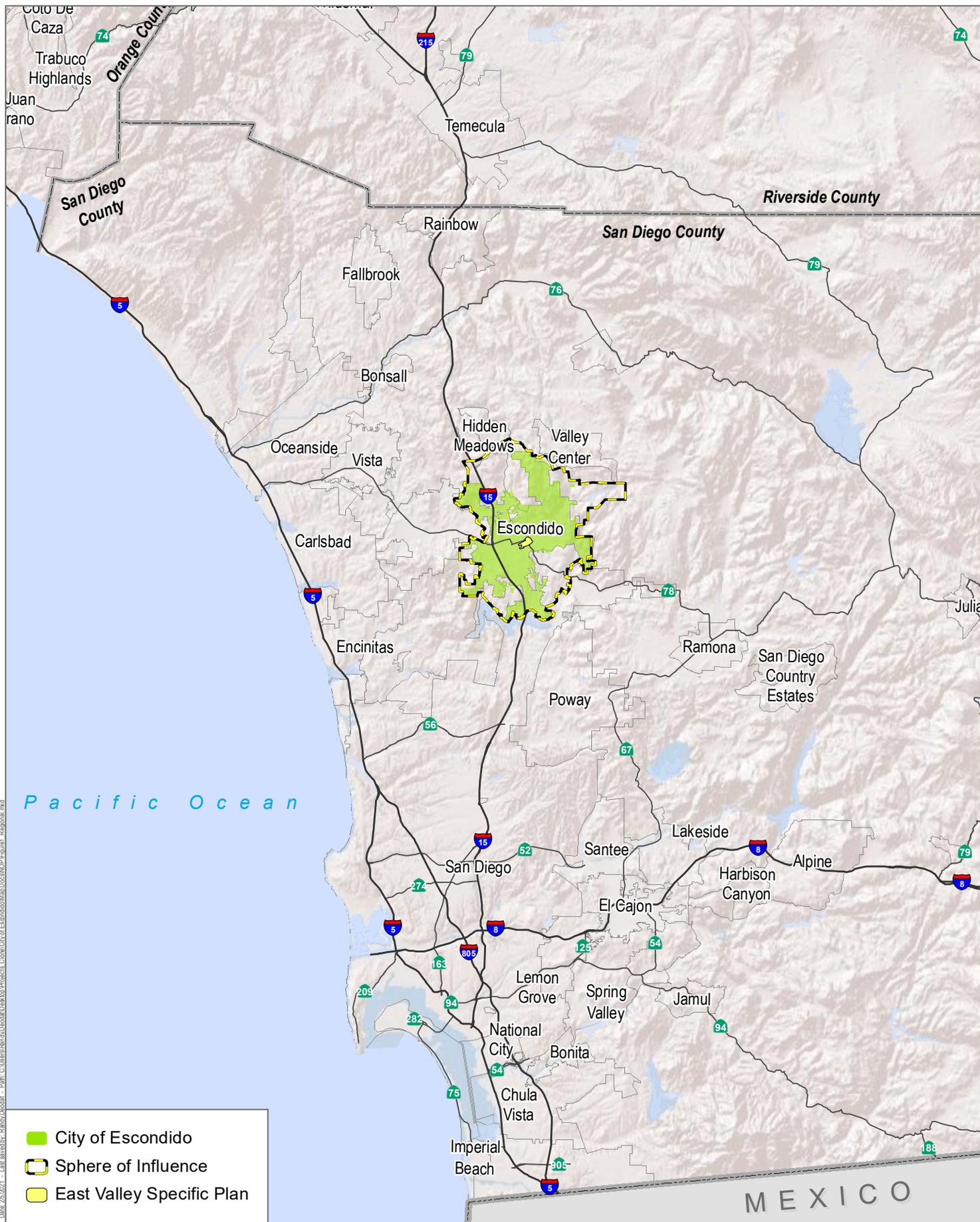
**City Staff Contact:** Darren Parker, City of Escondido, Planning Division, 201 North Broadway, Escondido, California 92025. Email: [dparker@escondido.org](mailto:dparker@escondido.org). Phone: (760) 839-4553.

**Project Website:** <https://www.escondido.org/hcis.aspx>.

**Environmental Impact Report:** An Environmental Impact Report has been identified as the environmental document to be prepared in accordance with Section 15060(d) of the CEQA Guidelines. The City has determined that a Program EIR (PEIR) will be prepared pursuant to CEQA Guidelines, Section 15168, to address potential direct and cumulative impacts associated with air quality, biological resources, cultural resources/tribal cultural resources, greenhouse gas emissions, noise, and transportation.

**NOP Public Scoping Meeting:** A virtual public scoping meeting will be held on **March 2, 2021, from 6:00 p.m. to 7:00 p.m.** The meeting will be accessible via the Jitsi platform at <https://meet.escondido.org/HCIS>. To register for the scoping meeting, please visit the website for meeting instructions. Any verbal comments received at this meeting should also be submitted in writing before the close of the NOP comment period (see mailing and email addresses above). All written comments will be considered in the preparation of the PEIR and become part of the record.

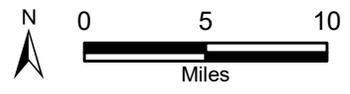
THE CITY OF ESCONDIDO IS AN EQUAL OPPORTUNITY PUBLIC ENTITY AND DOES NOT DISCRIMINATE ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, SEX, RELIGION, AGE, OR DISABILITY IN EMPLOYMENT OR THE PROVISION OF SERVICE. IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT/SECTION 504 REHABILITATION ACT OF 1973, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, PLEASE CONTACT THE AMERICANS WITH DISABILITIES ACT COORDINATOR AT (760) 839-4643 AT LEAST 48 HOURS BEFORE THE MEETING IF DISABILITY ACCOMMODATIONS ARE NEEDED.



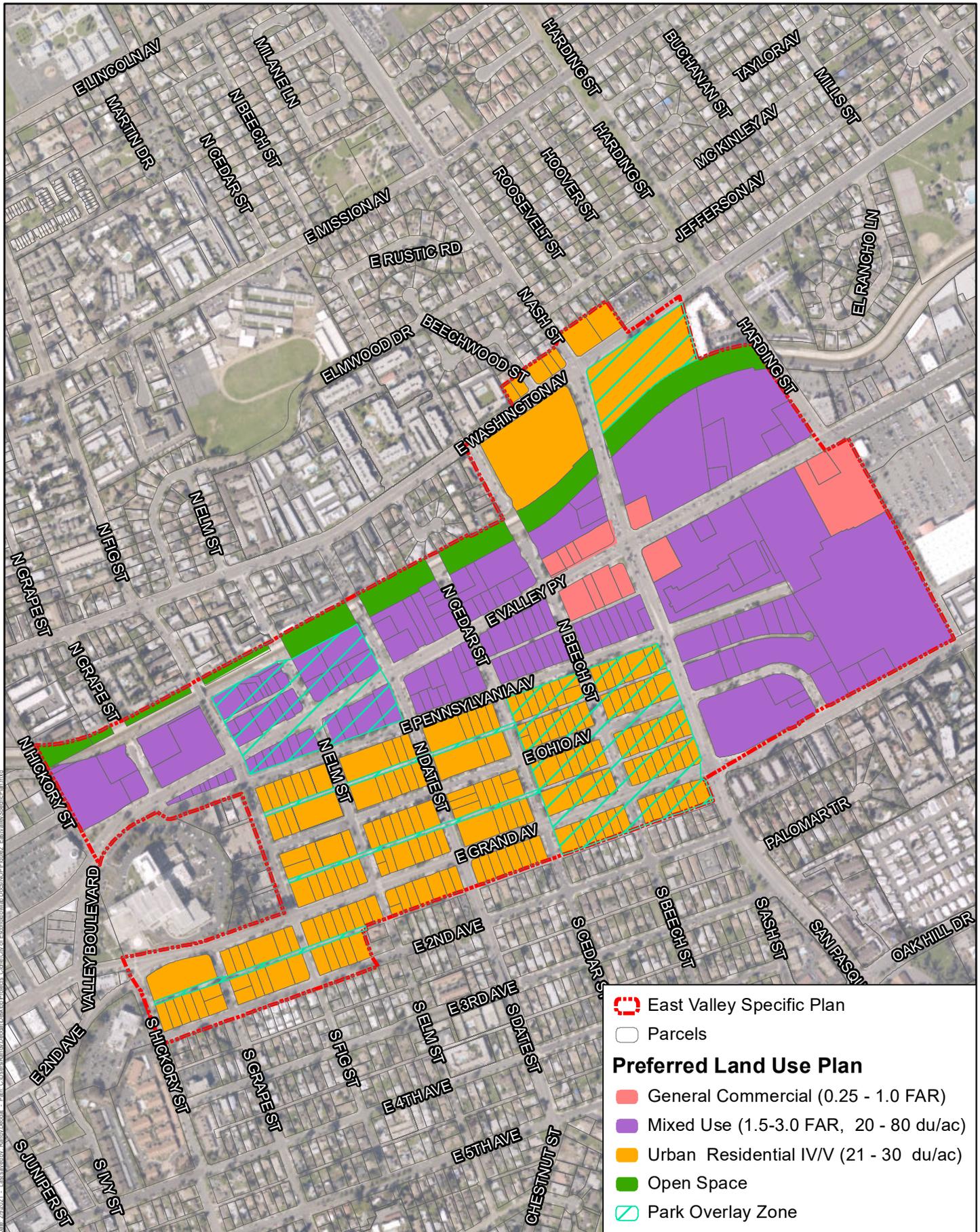
Date: 2/5/2021 - 1:58:54 PM - Path: C:\Users\Brenda\OneDrive\Projects\City of Escondido\MapDocs\MapDocs\Regional.mxd

- City of Escondido
- Sphere of Influence
- East Valley Specific Plan

Source: ESRI 2020.



**Figure 1**  
Regional Location  
The Housing and Community Investment Study



Source: Rick Engineering 2021; SanGIS Imagery 2017.



NATIVE AMERICAN HERITAGE COMMISSION



February 17, 2021

Darren Parker
City of Escondido
201 North Broadway
Escondido, CA 92025

Re: 2021020263, Escondido Housing and Community Investment Study Project, San Diego County

Dear Mr. Parker:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, § 15064.5 (b) (CEQA Guidelines § 15064.5 (b)). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines § 15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015. If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). Both SB 18 and AB 52 have tribal consultation requirements. If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

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## AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

- 1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:** Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:

  - a. A brief description of the project.
  - b. The lead agency contact information.
  - c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
  - d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).
- 2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report:** A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1(b)).

  - a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).
- 3. Mandatory Topics of Consultation If Requested by a Tribe:** The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:

  - a. Alternatives to the project.
  - b. Recommended mitigation measures.
  - c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).
- 4. Discretionary Topics of Consultation:** The following topics are discretionary topics of consultation:

  - a. Type of environmental review necessary.
  - b. Significance of the tribal cultural resources.
  - c. Significance of the project's impacts on tribal cultural resources.
  - d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).
- 5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process:** With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).
- 6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document:** If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:

  - a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
  - b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

- 7. Conclusion of Consultation:** Consultation with a tribe shall be considered concluded when either of the following occurs:
- a.** The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
  - b.** A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).
- 8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document:** Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).
- 9. Required Consideration of Feasible Mitigation:** If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).
- 10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**
- a.** Avoidance and preservation of the resources in place, including, but not limited to:
    - i.** Planning and construction to avoid the resources and protect the cultural and natural context.
    - ii.** Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
  - b.** Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
    - i.** Protecting the cultural character and integrity of the resource.
    - ii.** Protecting the traditional use of the resource.
    - iii.** Protecting the confidentiality of the resource.
  - c.** Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
  - d.** Protecting the resource. (Pub. Resource Code §21084.3 (b)).
  - e.** Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
  - f.** Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).
- 11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource:** An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
- a.** The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
  - b.** The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
  - c.** The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: [http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation\\_CalEPAPDF.pdf](http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf)

## SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: [https://www.opr.ca.gov/docs/09\\_14\\_05\\_Updated\\_Guidelines\\_922.pdf](https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf).

Some of SB 18's provisions include:

1. **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. **No Statutory Time Limit on SB 18 Tribal Consultation.** There is no statutory time limit on SB 18 tribal consultation.
3. **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. **Conclusion of SB 18 Tribal Consultation:** Consultation should be concluded at the point in which:
  - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
  - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>.

## NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center ([http://ohp.parks.ca.gov/?page\\_id=1068](http://ohp.parks.ca.gov/?page_id=1068)) for an archaeological records search. The records search will determine:
  - a. If part or all of the APE has been previously surveyed for cultural resources.
  - b. If any known cultural resources have already been recorded on or adjacent to the APE.
  - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
  - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.

- b.** The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.
- 3.** Contact the NAHC for:
- a.** A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
  - b.** A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
- 4.** Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
- a.** Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, §15064.5(f) (CEQA Guidelines §15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
  - b.** Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
  - c.** Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code §7050.5, Public Resources Code §5097.98, and Cal. Code Regs., tit. 14, §15064.5, subdivisions (d) and (e) (CEQA Guidelines §15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address:  
[Andrew.Green@nahc.ca.gov](mailto:Andrew.Green@nahc.ca.gov).

Sincerely,



Andrew Green  
Cultural Resources Analyst

cc: State Clearinghouse

# Rincon Band of Luiseño Indians

## CULTURAL RESOURCES DEPARTMENT

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One Government Center Lane | Valley Center | CA 92082  
(760) 749-1051 | Fax: (760) 749-8901 | [rincon-nsn.gov](http://rincon-nsn.gov)



March 3, 2021

**Sent via email: [dparker@escondido.org](mailto:dparker@escondido.org)**

City of Escondido  
Planning Division  
Darren Parker  
201 North Broadway  
Escondido, CA 92025

**Re: Response to Notice of Preparation and Notice of Scoping Meeting for the Housing and Community Investment Study Program Environmental Impact Report; City Project Number: PHG 20-0028; PHG 20-0029; PHG 20-0030**

Dear Mr. Parker,

This letter is written on behalf of the Rincon Band of Luiseño Indians (“Rincon Band” or “Band”), a federally recognized Indian Tribe and sovereign government. We have received your Notice of Preparation and Notice of Scoping Meeting for the Housing and Community Investment Study Program Environmental Impact Report, and we thank you for the opportunity to provide comments. The identified location is within the Traditional Use Area (TUA) of the Luiseño people and within the Band’s specific Area of Historic Interest (AHI). As such, Rincon is traditionally and culturally affiliated to the project area.

From the provided documents and previous consultation on the project, the Band kindly asks the City to reiterate that consultation with the affiliated Tribes early in the process will be critical to eliminate zone changes and potential development for areas with significant cultural resources or other tribal cultural resources. Furthermore, the Rincon Band would like to continue consultation on standardized mitigation measures that can be applied when physical construction of any project sites.

If you have additional questions or concerns, please do not hesitate to contact our office at your convenience at (760) 297-2635 or via electronic mail at [cmadrigal@rincon-nsn.gov](mailto:cmadrigal@rincon-nsn.gov). Thank you for the opportunity to protect and preserve our cultural assets.

Sincerely,

Cheryl Madrigal  
Tribal Historic Preservation Officer  
Cultural Resources Manager

# Rincon Band of Luiseño Indians

## CULTURAL RESOURCES DEPARTMENT

One Government Center Lane | Valley Center | CA 92082  
(760) 749-1051 | Fax: (760) 749-8901 | rincon-nsn.gov



March 3, 2021

**Sent via email to: DParker@escondido.org**

City of Escondido

Darren Parker, Associate Planner

201 North Broadway

Escondido, CA 92025-4313

### Re: East Valley Specific Plan

Dear Mr. Parker,

This letter is written on behalf of the Rincon Band of Luiseño Indians. Thank you again for our phone consultation with you earlier this week, discussing the East Valley Specific Plan.

As per our conversation, the City proposed a mitigation measures to exclude projects with less than 4 feet deep ground disturbance as exempt from any cultural mitigation measures. Please note that the Rincon Band is not in agreement with that as such measure would omit any protection for surface cultural resources. Furthermore, we would like to reiterate our comments on the proposed mitigation measures. Please see following revisions as suggested by the Rincon Band:

**M-CR-6** Prior to the issuance of the grading permit, the Applicant shall enter into a Tribal Cultural Resource Treatment and Monitoring Agreement (also known as a Pre-Excavation Agreement) with ~~the San Luis Rey Band of Mission Indians, Rincon Band of Luiseno Indians, or another tribe that is~~ a traditionally and culturally affiliated Tribe(s) ("TCA Tribe") as identified through consultation with the City. with the Project Location ("TCA Tribe")

prior to issuance of a grading permit. The purposes of the agreement are

- (1) to provide the Applicant with clear expectations regarding tribal cultural resources and
- (2) to formalize protocols and procedures between the Applicant/Owner and the TCA Tribe(s) for the protection and treatment of, including but not limited to, Native American human remains, funerary objects, cultural and religious landscapes, ceremonial items, traditional gathering areas and cultural items, located and/or discovered through a monitoring program in conjunction with the construction of the Project, including additional archaeological surveys and/or studies, excavations, geotechnical investigations, grading, and all other ground-disturbing activities. The agreement shall incorporate, at a minimum, the performance criteria and standards, protocols, and procedures set forth in mitigation measures M-CR-7 through M-CR-15, and the following information:
  - Parties entering into the agreement and contact information.
  - Responsibilities of the Property Owner or their representative, archaeological monitors, and tribal monitors.

Bo Mazzetti  
Chairman

Tishmall Turner  
Vice Chair

Laurie E. Gonzalez  
Council Member

John Constantino  
Council Member

Joseph Linton  
Council Member

- Project grading and development scheduling, and determination of authority to adjust if unexpected discovery. Terms of compensation for the monitors, including overtime and weekend rates, in addition to mileage reimbursement.
- Requirements in the event of unanticipated discoveries, which shall address grading and grubbing requirements including controlled grading and controlled vegetation removal in areas of cultural sensitivity, analysis of identified cultural materials, and on-site storage of cultural materials.
- Treatment of identified Native American cultural materials.
- Treatment of Native American human remains and associated grave goods.
- Confidentiality of cultural information including location and data.
- Negotiation of disagreements should they arise.
- Regulations that apply to cultural resources that have been identified or may be identified during project construction.

**M-CR-7** Prior to issuance of a grading permit, the Applicant shall provide written verification to the City that a qualified archaeologist and a Native American monitor associated with a TCA Tribe have been retained to implement the monitoring program. The archaeologist shall be responsible for coordinating with the Native American monitor. This verification shall be presented to the City in a letter from the Project archaeologist that confirms the selected Native American monitor is associated with a TCA Tribe. The City, prior to any pre-construction meeting, shall approve all persons involved in the monitoring program.

**M-CR-8** The qualified archaeologist and a Native American monitor shall attend all applicable pre-construction meetings with the General Contractor and/or associated subcontractors to present the environmental awareness program. ~~attend the pre-grading meeting with the grading contractors to explain and coordinate the requirements of the monitoring program.~~

**M-CR-9** During the initial grubbing, site grading, excavation or disturbance of the ground surface (including both on- and off-site improvement areas), the qualified archaeologist and the Native American monitor shall be present full-time. If the full-time monitoring reveals that the top soil throughout the Project impact area (both on and off-site) has been previously removed during the development of the roads and buildings within the Project area, then a decrease of monitoring to part-time monitoring or the termination of monitoring can be implemented, as deemed appropriate by the qualified archaeologist in consultation with the Native American monitor. The frequency of subsequent monitoring shall depend on the rate of excavation, the materials excavated, and any discoveries of tribal cultural resources as defined in California Public Resources Code Section 21074. The qualified archaeologist, in consultation with the Native American monitor, shall be responsible for determining the duration and frequency of monitoring considering these factors. Archaeological and Native American monitoring will be discontinued when the depth of grading and soil conditions no longer retain the potential to contain cultural deposits (i.e., soil conditions are comprised solely of fill or granitic bedrock).

**M-CR-10** In the event that previously unidentified tribal cultural resources are discovered, all work must halt within a 100-foot radius of the discovery. The qualified archaeologist and the Native American monitor shall evaluate the significance of the find and shall have the authority to modify the no-work radius as appropriate, using professional judgment. The qualified archaeologist and Native American Monitor shall consider the criteria

identified by California Public Resources Code sections 21083.2(g) and 21074, and CEQA Guidelines sections 15064 and 15064.5(c) in determining the significance of a discovered resource. If the professional archaeologist and Native American monitor determine that the find does not represent a culturally significant resource, work may resume immediately, and no agency notifications are required. Isolates and clearly non-significant deposits shall be documented in the field and collected, and monitored grading can immediately proceed. All unearthed archaeological resources or tribal cultural resources will be collected, temporarily stored in a secure location as agreed upon in the Pre-Excavation Agreement, and repatriated for later reburial on project site according to the terms of the Pre-Excavation Agreement, unless ordered to do otherwise by responsible agency or court of competent jurisdiction.

**M-CR-11** If the qualified archaeologist and Native American monitor determine that the find does represent a potentially significant tribal cultural resource, considering the criteria identified by California Public Resources Code sections 21083.2(g) and 21074, and CEQA Guidelines sections 15064 and 15064.5(c), the archaeologist shall immediately notify the City of said discovery. The qualified archaeologist, in consultation with the City, the consulting TCA Tribe(s) and the Native American monitor, shall determine the significance of the discovered resource. A recommendation for the tribal cultural resource's treatment and disposition shall be made by the qualified archaeologist in consultation with the TCA Tribe(s) ~~and the Native American monitor~~ and be submitted to the City for review and approval. If the find is determined to be a Tribal Cultural Resource under CEQA, as defined in California Public Resources Code Section 21074(a) through (c), appropriate treatment measures will be implemented. Work may not resume within the no-work radius until the City, through consultation as set forth herein, determines either that: 1) the discovery does not constitute a Tribal Cultural Resource under CEQA, as defined in California Public Resources Code Section 21074(a) through (c); or 2) the approved treatment and disposition measures have been completed.

**M-CR-12** All sacred sites, significant tribal cultural resources, and unique archaeological resources encountered within the Project area shall be avoided and preserved as the preferred mitigation. The avoidance and preservation of the significant tribal cultural resource or unique archaeological resource must first be considered and evaluated in consultation with the TCA Tribe(s) as required by CEQA and in compliance with all relevant mitigation measures for the Project. If any significant tribal cultural resource or unique archaeological resource has been discovered and such avoidance or preservation measure has been deemed to be infeasible by the City's Director of Community Development (after a recommendation is provided by the qualified archaeologist, in consultation with the TCA Tribe(s) ~~and Native American monitor~~, making a determination of infeasibility that takes into account the factors listed in California Public Resources Code sections 21061.1, 21081(a)(3), and CEQA Guidelines section 15091, and in accordance with all relevant mitigation measures for the Project), then culturally appropriate treatment of those resources, including but not limited to funding an ethnographic or ethnohistoric study of the resource(s), and/or developing a research design and data recovery program to mitigate impacts shall be prepared by the qualified archaeologist (using professional archaeological methods), in consultation with the TCA Tribe and the Native American monitor, and shall be subject to approval by the City. ~~The archaeological monitor, in consultation with the Native American monitor, shall determine the amount of material to be recovered for an adequate-~~ No artifact sample sampling for analysis is allowed, unless requested and approved by the consulting TCA Tribe(s). Before construction activities are allowed to resume in the affected area, the research design and data recovery program activities must be concluded to the satisfaction of the City.

**M-CR-13** As specified by California Health and Safety Code section 7050.5, if human remains are found on the Project site during construction or during archaeological work, the person responsible for the excavation, or his or her authorized representative, shall immediately notify the San Diego County Coroner's office. Determination of whether the remains are human shall be conducted on site and in situ where they were discovered by a forensic anthropologist, unless the forensic anthropologist and the Native American monitor agree to remove the remains to ~~an~~ temporary off-site location for examination. No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains shall occur until the Coroner has made the necessary findings as to origin and disposition. A temporary construction exclusion zone shall be established surrounding the area of the discovery so that the area would be protected, and consultation and treatment could occur as prescribed by law. If the Coroner determines the remains are Native American and not the result of a crime scene, the Coroner will notify the NAHC, which then will designate a Native American Most Likely Descendant (MLD) for the project (California Public Resources Code § 5097.98) for proper treatment and disposition in accordance with California Public Resources Code section 5097.98. The designated MLD will have 48 hours from the time access to the property is granted to make recommendations concerning treatment of the remains. If the City does not agree with the recommendations of the MLD, the NAHC can mediate (California Public Resources Code § 5097.94). If no agreement is reached, the remains shall be kept in situ, or reburied in a secure location in close proximity to where they were found and where they will not be further disturbed (California Public Resources Code § 5097.98). Work may not resume within the no work radius until the lead agency, through consultation as appropriate, determine that the treatment measures have been completed to their satisfaction. The analysis of the remains shall only occur on site in the presence of ~~a Native American monitor~~the MLD, unless the forensic anthropologist and the ~~Native American monitor~~MLD agree to remove the remains to an off-site location for examination.

**M-CR-14** If the qualified archaeologist elects to collect any tribal cultural resources, the Native American monitor must be present during any ~~testing or~~ cataloging of those resources. Moreover, if the qualified archaeologist does not collect the cultural resources that are unearthed during the ground-disturbing activities, the Native American monitor may, at their discretion, collect said resources ~~and provide them to the TCA Tribe for respectful and dignified treatment in accordance with the Tribe's cultural and spiritual traditions for later reburial on project site or storage at a local curation facility.~~ Any tribal cultural resources collected by the qualified archaeologist shall be repatriated to the TCA Tribe for later reburial on project site. Should the TCA Tribe(s) ~~or other traditionally and culturally affiliated tribe~~ decline the collection, the collection shall be curated at the San Diego Archaeological Center. All other resources determined by the qualified archaeologist, in consultation with the Native American monitor, to not be tribal cultural resources, shall be curated at the San Diego Archaeological Center.

**M-CR-15** Prior to the release of the grading bond, a monitoring report and/or evaluation report, if appropriate, that describes the results, analysis, and conclusions of the archaeological monitoring program and any data recovery program on the Project site, shall be submitted by the qualified archaeologist to the City. The Native American monitor shall be responsible for providing any notes or comments to the qualified archaeologist in a timely manner to be submitted with the report. The report will include California Department of Parks and Recreation Primary and Archaeological Site Forms for any newly discovered resources. A copy of the final report will be submitted to the South Coastal Information Center after approval by the City.

These are preliminary comments on the draft mitigation measures. Upon receipt of the Cultural Resources Assessment, the Rincon Band would like to further discuss the measures. If you have additional questions or

concerns, please do not hesitate to contact our office at your convenience at (760) 297-2635 or via electronic mail at [cmadrigal@rincon-nsn.gov](mailto:cmadrigal@rincon-nsn.gov). We look forward to working together to protect and preserve our cultural assets.

Sincerely,

A handwritten signature in blue ink, appearing to read "Cheryl Madrigal". The signature is fluid and cursive, with a large initial "C" and a long, sweeping tail.

Cheryl Madrigal  
Tribal Historic Preservation Officer  
Cultural Resources Manager

---

**From:** Darren Parker <dparker@escondido.org>  
**Sent:** Tuesday, March 2, 2021 9:59 AM  
**To:** Kristin Blackson  
**Cc:** Mike Strong; Michiko Mimi Morisaki  
**Subject:** [External]FW: [EXT] Housing Study

Message below from the Vallecitos water district. However the area is not within their water district

---

**From:** Ingrid Stichter <istichter@vwd.org>  
**Sent:** Monday, March 1, 2021 4:24 PM  
**To:** Darren Parker <dparker@escondido.org>  
**Subject:** [EXT] Housing Study

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender email address AND know the content is safe.

Any changes in the density (increases) of areas within the Vallecitos Water District service areas would need to be reviewed by the District directly to see if adequate supplies of water and wastewater capacities are currently available. Any changes increases/decreases may need collaboration with our Master Planning. Please keep us in the loop and let us know if you need any specific information from our GIS.

Ingrid

Ingrid Stichter  
Engineering Tech III  
Vallecitos Water District  
(760) 744-0460 x 233  
[istichter@vwd.org](mailto:istichter@vwd.org)



**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender email address AND know the content is safe.

The map had separated this area may not be applicable to our District doing quick review now

Ingrid Stichter  
Engineering Tech III  
Vallecitos Water District  
(760) 744-0460 x 233  
[istichter@vwd.org](mailto:istichter@vwd.org)

For local information and daily updates on COVID-19, please visit [San Diego County Coronavirus](#). To receive updates via text, send **COSD COVID19** to **468-311**.



**DEPARTMENT OF TRANSPORTATION**

DISTRICT 11  
4050 TAYLOR STREET, MS-240  
SAN DIEGO, CA 92110  
PHONE (619) 688-3137  
FAX (619) 688-4299  
TTY 711  
www.dot.ca.gov



*Making Conservation  
a California Way of Life.*

March 15, 2021

11-SD-15, 78  
PM VAR

Escondido Housing and Community Investment Study  
NOP/SCH#2021020263

Mr. Michael Strong  
City of Escondido  
Director of Community Development  
City of Escondido  
201 N. Broadway  
Escondido, CA 92025

Dear Mr. Strong:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the Notice of Preparation for the Draft Environmental Impact Report (NOP) for the Escondido Housing and Community Investment Study located near Interstate 15 (I-15) and /State Route 78 (SR-78). The mission of Caltrans is to provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability. The Local Development-Intergovernmental Review (LD-IGR) Program reviews land use projects and plans to ensure consistency with our mission and state planning priorities.

Caltrans has the following comments:

**Traffic Impact Study**

- A Vehicle Miles of Travel (VMT) based Traffic Impact Study (TIS) should be provided for this project. Please use the Governor's Office of Planning and Research Guidance to identify VMT related impacts.<sup>i</sup>
- The TIS may also need to identify the proposed project's near-term and long-term safety or operational issues, on or adjacent any existing or proposed State facilities.

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<sup>i</sup> California Governor's Office of Planning and Research (OPR) 2018. "Technical Advisory on Evaluating Transportation Impacts in CEQA." [http://opr.ca.gov/docs/20190122-743\\_Technical\\_Advisory.pdf](http://opr.ca.gov/docs/20190122-743_Technical_Advisory.pdf)

## **Design**

- Caltrans and SANDAG, in partnership with the City of Escondido and other local agencies, are preparing a Comprehensive Multimodal Corridor Plan (CMCP) for the North County San Diego sub-region, which encompasses the City of Escondido. The CMCP and the City's Housing and Community Investment Study efforts should be coordinated.

## **Complete Streets and Mobility Network**

Caltrans views all transportation improvements as opportunities to improve safety, access and mobility for all travelers in California and recognizes bicycle, pedestrian and transit modes as integral elements of the transportation system. Caltrans supports improved transit accommodation through the provision of Park and Ride facilities, improved bicycle and pedestrian access and safety improvements, signal prioritization for transit, bus on shoulders, ramp improvements, or other enhancements that promotes a complete and integrated transportation system. Early coordination with Caltrans, in locations that may affect both Caltrans and the City of Escondido is encouraged.

To reduce greenhouse gas emissions and achieve California's Climate Change target, Caltrans is implementing Complete Streets and Climate Change policies into State Highway Operations and Protection Program (SHOPP) projects to meet multi-modal mobility needs. Caltrans looks forward to working with the City to evaluate potential Complete Streets projects.

## **Land Use and Smart Growth**

Caltrans recognizes there is a strong link between transportation and land use. Development can have a significant impact on traffic and congestion on State transportation facilities. In particular, the pattern of land use can affect both local vehicle miles traveled and the number of trips. Caltrans supports collaboration with local agencies to work towards a safe, functional, interconnected, multi-modal transportation system integrated through applicable "smart growth" type land use planning and policies.

Mr. Michael Strong  
March 15, 2021  
Page 3

The City should continue to coordinate with Caltrans to implement necessary improvements at intersections and interchanges where the agencies have joint jurisdiction.

### **Environmental**

Caltrans welcomes the opportunity to be a Responsible Agency under the California Environmental Quality Act (CEQA), as we have some discretionary authority of a portion of the project that is in Caltrans' R/W through the form of an encroachment permit process. We look forward to the coordination of our efforts to ensure that Caltrans can adopt the alternative and/or mitigation measure for our R/W. We would appreciate meeting with you to discuss the elements of the EIR that Caltrans will use for our subsequent environmental compliance.

An encroachment permit will be required for any work within the Caltrans' R/W prior to construction. As part of the encroachment permit process, the applicant must provide approved final environmental documents for this project, corresponding technical studies, and necessary regulatory and resource agency permits. Specifically, CEQA determination or exemption. The supporting documents must address all environmental impacts within the Caltrans' R/W and address any impacts from avoidance and/or mitigation measures.

We recommend that this project specifically identifies and assesses potential impacts caused by the project or impacts from mitigation efforts that occur within Caltrans R/W that includes impacts to the natural environment, infrastructure (including but not limited to highways/roadways/on-ramps and off-ramps) and appurtenant features (lighting, drainage, signage, guardrail, slopes, etc). Caltrans is interested in any additional mitigation measures identified for the DEIR.

### **Right-of-Way**

- Per Business and Profession Code 8771, perpetuation of survey monuments by a licensed land surveyor is required, if they are being destroyed by any construction.

Mr. Michael Strong  
March 15, 2021  
Page 4

- Any work performed within Caltrans R/W will require discretionary review and approval by Caltrans and an encroachment permit will be required for any work within the Caltrans R/W prior to construction.

Additional information regarding encroachment permits may be obtained by contacting the Caltrans Permits Office at (619) 688-6158 or by visiting the website at <https://dot.ca.gov/programs/traffic-operations/ep>. Early coordination with Caltrans is strongly advised for all encroachment permits.

If you have any questions, please contact Kimberly Dodson, of the Caltrans Development Review Branch, at (619) 985-1587 or by e-mail sent to [Kimberly.Dodson@dot.ca.gov](mailto:Kimberly.Dodson@dot.ca.gov).

Sincerely,

**electronically signed by**

MAURICE EATON, Branch Chief  
Local Development and Intergovernmental Review



401 B Street, Suite 800  
 San Diego, CA 92101-4231  
 (619) 699-1900  
 Fax (619) 699-1905  
 sandag.org

March 12, 2021

File Number 3100400

Mr. Mike Strong  
 Director of Community Development, City of Escondido  
 201 North Broadway  
 Escondido, CA 92025

Dear Mr. Strong:

Subject: Escondido Housing and Community Investment Study NOP

Thank you for the opportunity to comment on the Escondido Housing and Community Investment Study. The San Diego Association of Governments (SANDAG) appreciates the City's efforts to implement the policies included in San Diego Forward: The Regional Plan that emphasize the need for better land use and transportation coordination. These policies will help provide people with more travel and housing choices, protect the environment, create healthy communities, and stimulate economic growth. SANDAG comments are based on policies included in the Regional Plan and are submitted from a regional perspective.

The 2021 Regional Plan envisions a transportation system that will bring more mobility options to where people live through its proposed policies that encourage new housing within Mobility Hubs. The regional Mobility Hub areas comprises communities in the region where transit and mobility services converge and includes the EIR project area. The Escondido Mobility Hub is envisioned as a "gateway" to the regional transit network while offering access to a wide range of on-demand Flexible Fleet choices that help make it easier to experience the North County community without needing to rely on a car. Mobility Hubs may also need additional housing at a higher density to accommodate the improved transit amenities. As the City of Escondido completes the housing portions of the Investment Study, it should consider greater density throughout the Mobility Hub.

The EIR project area offers existing light-rail, bus, and biking options with planned multimodal enhancements through the 2021 Regional Plan. When preparing the EIR, please consider integrating the following parking and transportation demand management (TDM) policies to compliment the array of existing and future mobility options while creating a housing plan that improves the City's environmental, economic, health, and social initiative:

- The City should consider eliminating or lowering parking requirements to allow for increased housing capacity, reduced construction costs, and allowing for more affordable housing, all while reducing car dependency and vehicle miles traveled.
- To further promote affordability and encourage alternative mobility options, the City should consider unbundling the cost of a parking spot from monthly rent or a purchase price, allowing residents who prefer not to have a car to pay less for housing.

*MEMBER AGENCIES*

- Cities of*
- Carlsbad*
- Chula Vista*
- Coronado*
- Del Mar*
- El Cajon*
- Encinitas*
- Escondido*
- Imperial Beach*
- La Mesa*
- Lemon Grove*
- National City*
- Oceanside*
- Poway*
- San Diego*
- San Marcos*
- Santee*
- Solana Beach*
- Vista*
- and*
- County of San Diego*

*ADVISORY MEMBERS*

- Imperial County*
- San Diego County*
- Regional Airport Authority*
- California Department*
- of Transportation*
- Metropolitan*
- Transit System*
- North County*
- Transit District*
- United States*
- Department of Defense*
- Port of San Diego*
- San Diego County*
- Water Authority*
- Southern California*
- Tribal Chairmen's Association*
- Mexico*

- The City should consider implementing complementary TDM policies that require new developments to provide multimodal amenities, such as secure bike and micromobility parking and repair stations; on-site shared mobility services like carshare; supportive infrastructure like enhanced transit waiting areas and safe passenger loading curb; intuitive wayfinding; transit pass subsidies; or on-site food, retail, or daycare facilities to contribute to a mix of uses.

SANDAG's TDM program, iCommute, offers several resources for planners and developers to implement TDM strategies. More information can be accessed at [icommutesd.com/planners/TDM-overview](https://icommutesd.com/planners/TDM-overview).

We appreciate the ability to comment on the City of San Diego's Stone Creek Draft EIR. If you have any questions, please contact me at (619) 699-1943 or [seth.litchney@sandag.org](mailto:seth.litchney@sandag.org).

Sincerely,



---

Seth Litchney (Mar 12, 2021 14:35 PST)

SETH LITCHNEY  
Senior Regional Planner

SLI/TFE/kwa

# Escondido Housing Study - SANDAG Comments

Final Audit Report

2021-03-12

Created:	2021-03-12
By:	Tracy Ferchaw (tracy.ferchaw@sandag.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAmLpl-Zy2_BRcMXhvly50k6hvUzyPyeDN

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**Mitchell M. Tsai**  
Attorney At Law

155 South El Molino Avenue  
Suite 104  
Pasadena, California 91101

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**VIA U.S. MAIL & E-MAIL**

March 18, 2021

Zack Beck  
City Clerk  
City of Escondido  
201 North Broadway  
Escondido, CA 92025  
Em: [zbeck@escondido.org](mailto:zbeck@escondido.org)

Mike Strong  
Director of Community Development  
City of Escondido  
201 North Broadway  
Escondido, CA 92025  
Em: [mstrong@escondido.org](mailto:mstrong@escondido.org)

RE: Notice of Preparation and Notice of Scoping Meeting for the Escondido Housing and Community Investment Study

Dear Mr. Beck and Mr. Strong,

On behalf of the Southwest Regional Council of Carpenters ( “**Carpenters**” or “**SWRCC**”), my Office is submitting these comments on the City of Escondido (“**City**”) Notice of Preparation of an Environmental Impact Report (“**NOP**”) (SCH No. 2021020263) for the Escondido Housing and Community Investment Study (“**Project**”).

The Southwest Carpenters is a labor union representing 50,000 union carpenters in six states, including California, and has a strong interest in well-ordered land use planning, addressing the environmental impacts of development projects and equitable economic development.

Individual members of the Southwest live, work and recreate in the City and surrounding communities and would be directly affected by the Project's environmental impacts.

Commenter expressly reserves the right to supplement these comments at or prior to hearings on the Project, and at any later hearings and proceedings related to this Project. Cal. Gov. Code § 65009(b); Cal. Pub. Res. Code § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

Commenter incorporates by reference all comments raising issues regarding the environmental impact report (“**EIR**”) submitted prior to certification of the EIR for the Project. *Citizens for Clean Energy v. City of Woodland* (2014) 225 CA4th 173, 191 (finding that any party who has objected to the Project's environmental documentation may assert any issue timely raised by other parties).

Moreover, Commenter requests that the Lead Agency provide notice for any and all notices referring or related to the Project issued under the California Environmental Quality Act (“**CEQA**”), Cal Public Resources Code (“**PRC**”) § 21000 *et seq*, and the California Planning and Zoning Law (“**Planning and Zoning Law**”), Cal. Gov't Code §§ 65000–65010. California Public Resources Code Sections 21092.2, and 21167(f) and Government Code Section 65092 require agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency's governing body.

The City should require the Applicant to provide additional community benefits such as requiring local hire and use of a skilled and trained workforce to build the Project. The City should require the use of workers who have graduated from a Joint Labor Management apprenticeship training program approved by the State of California, or have at least as many hours of on-the-job experience in the applicable craft which would be required to graduate from such a state approved apprenticeship training program or who are registered apprentices in an apprenticeship training program approved by the State of California.

Community benefits such as local hire and skilled and trained workforce requirements can also be helpful to reduce environmental impacts and improve the positive economic impact of the Project. Local hire provisions requiring that a certain percentage of workers reside within 10 miles or less of the Project Site can reduce the

length of vendor trips, reduce greenhouse gas emissions and providing localized economic benefits. As environmental consultants Matt Hagemann and Paul E. Rosenfeld note:

[A]ny local hire requirement that results in a decreased worker trip length from the default value has the potential to result in a reduction of construction-related GHG emissions, though the significance of the reduction would vary based on the location and urbanization level of the project site.

March 8, 2021 SWAPE Letter to Mitchell M. Tsai re Local Hire Requirements and Considerations for Greenhouse Gas Modeling.

Skilled and trained workforce requirements promote the development of skilled trades that yield sustainable economic development. As the California Workforce Development Board and the UC Berkeley Center for Labor Research and Education concluded:

. . . labor should be considered an investment rather than a cost – and investments in growing, diversifying, and upskilling California’s workforce can positively affect returns on climate mitigation efforts. In other words, well trained workers are key to delivering emissions reductions and moving California closer to its climate targets.<sup>1</sup>

Also, the City should require the Project to be built to standards exceeding the current 2019 California Green Building Code and 2020 County of Los Angeles Green Building Standards Code to mitigate the Project’s environmental impacts and to advance progress towards the State of California’s environmental goals.

## I. **THE PROJECT WOULD BE APPROVED IN VIOLATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

### A. Background Concerning the California Environmental Quality Act

CEQA has two basic purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. 14

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<sup>1</sup> California Workforce Development Board (2020) Putting California on the High Road: A Jobs and Climate Action Plan for 2030 at p. ii, available at <https://laborcenter.berkeley.edu/wp-content/uploads/2020/09/Putting-California-on-the-High-Road.pdf>

California Code of Regulations (“**CCR**” or “**CEQA Guidelines**”) § 15002(a)(1).<sup>2</sup> “Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made. Thus, the EIR ‘protects not only the environment but also informed self-government.’ [Citation.]” *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 564. The EIR has been described as “an environmental ‘alarm bell’ whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.” *Berkeley Keep Jets Over the Bay v. Bd. of Port Comm’rs.* (2001) 91 Cal. App. 4th 1344, 1354 (“*Berkeley Jets*”); *County of Inyo v. Yorty* (1973) 32 Cal. App. 3d 795, 810.

Second, CEQA directs public agencies to avoid or reduce environmental damage when possible by requiring alternatives or mitigation measures. CEQA Guidelines § 15002(a)(2) and (3). *See also, Berkeley Jets*, 91 Cal. App. 4th 1344, 1354; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553; *Laurel Heights Improvement Ass’n v. Regents of the University of California* (1988) 47 Cal. 3d 376, 400. The EIR serves to provide public agencies and the public in general with information about the effect that a proposed project is likely to have on the environment and to “identify ways that environmental damage can be avoided or significantly reduced.” CEQA Guidelines § 15002(a)(2). If the project has a significant effect on the environment, the agency may approve the project only upon finding that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns” specified in CEQA section 21081. CEQA Guidelines § 15092(b)(2)(A–B).

While the courts review an EIR using an “abuse of discretion” standard, “the reviewing court is not to ‘uncritically rely on every study or analysis presented by a project proponent in support of its position.’ A ‘clearly inadequate or unsupported study is entitled to no judicial deference.’” *Berkeley Jets*, 91 Cal. App. 4th 1344, 1355 (emphasis added) (quoting *Laurel Heights*, 47 Cal.3d at 391, 409 fn. 12). Drawing this line and determining whether the EIR complies with CEQA’s information disclosure

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<sup>2</sup> The CEQA Guidelines, codified in Title 14 of the California Code of Regulations, section 150000 et seq, are regulatory guidelines promulgated by the state Natural Resources Agency for the implementation of CEQA. (Cal. Pub. Res. Code § 21083.) The CEQA Guidelines are given “great weight in interpreting CEQA except when . . . clearly unauthorized or erroneous.” *Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 62 Cal. 4th 204, 217.

requirements presents a question of law subject to independent review by the courts. (*Sierra Club v. Cnty. of Fresno* (2018) 6 Cal. 5th 502, 515; *Madera Oversight Coalition, Inc. v. County of Madera* (2011) 199 Cal. App. 4th 48, 102, 131.) As the court stated in *Berkeley Jets*, 91 Cal. App. 4th at 1355:

A prejudicial abuse of discretion occurs “if the failure to include relevant information precludes informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR process.

The preparation and circulation of an EIR is more than a set of technical hurdles for agencies and developers to overcome. The EIR’s function is to ensure that government officials who decide to build or approve a project do so with a full understanding of the environmental consequences and, equally important, that the public is assured those consequences have been considered. For the EIR to serve these goals it must present information so that the foreseeable impacts of pursuing the project can be understood and weighed, and the public must be given an adequate opportunity to comment on that presentation before the decision to go forward is made. *Communities for a Better Environment v. Richmond* (2010) 184 Cal. App. 4th 70, 80 (quoting *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 449–450).

B. Due to the COVID-19 Crisis, the City Must Adopt a Mandatory Finding of Significance that the Project May Cause a Substantial Adverse Effect on Human Beings and Mitigate COVID-19 Impacts

CEQA requires that an agency make a finding of significance when a Project may cause a significant adverse effect on human beings. PRC § 21083(b)(3); CEQA Guidelines § 15065(a)(4).

Public health risks related to construction work requires a mandatory finding of significance under CEQA. Construction work has been defined as a Lower to High-risk activity for COVID-19 spread by the Occupations Safety and Health Administration. Recently, several construction sites have been identified as sources of community spread of COVID-19.<sup>3</sup>

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<sup>3</sup> Santa Clara County Public Health (June 12, 2020) COVID-19 CASES AT CONSTRUCTION SITES HIGHLIGHT NEED FOR CONTINUED VIGILANCE IN SECTORS THAT HAVE REOPENED, available at <https://www.sccgov.org/sites/covid19/Pages/press-release-06-12-2020-cases-at-construction-sites.aspx>.

SWRCC recommends that the Lead Agency adopt additional CEQA mitigation measures to mitigate public health risks from the Project's construction activities. SWRCC requests that the Lead Agency require safe on-site construction work practices as well as training and certification for any construction workers on the Project Site.

In particular, based upon SWRCC's experience with safe construction site work practices, SWRCC recommends that the Lead Agency require that while construction activities are being conducted at the Project Site:

**Construction Site Design:**

- The Project Site will be limited to two controlled entry points.
- Entry points will have temperature screening technicians taking temperature readings when the entry point is open.
- The Temperature Screening Site Plan shows details regarding access to the Project Site and Project Site logistics for conducting temperature screening.
- A 48-hour advance notice will be provided to all trades prior to the first day of temperature screening.
- The perimeter fence directly adjacent to the entry points will be clearly marked indicating the appropriate 6-foot social distancing position for when you approach the screening area. Please reference the Apex temperature screening site map for additional details.
- There will be clear signage posted at the project site directing you through temperature screening.
- Provide hand washing stations throughout the construction site.

**Testing Procedures:**

- The temperature screening being used are non-contact devices.
- Temperature readings will not be recorded.

- Personnel will be screened upon entering the testing center and should only take 1-2 seconds per individual.
- Hard hats, head coverings, sweat, dirt, sunscreen or any other cosmetics must be removed on the forehead before temperature screening.
- Anyone who refuses to submit to a temperature screening or does not answer the health screening questions will be refused access to the Project Site.
- Screening will be performed at both entrances from 5:30 am to 7:30 am.; main gate [ZONE 1] and personnel gate [ZONE 2]
- After 7:30 am only the main gate entrance [ZONE 1] will continue to be used for temperature testing for anybody gaining entry to the project site such as returning personnel, deliveries, and visitors.
- If the digital thermometer displays a temperature reading above 100.0 degrees Fahrenheit, a second reading will be taken to verify an accurate reading.
- If the second reading confirms an elevated temperature, DHS will instruct the individual that he/she will not be allowed to enter the Project Site. DHS will also instruct the individual to promptly notify his/her supervisor and his/her human resources (HR) representative and provide them with a copy of Annex A.

### **Planning**

- Require the development of an Infectious Disease Preparedness and Response Plan that will include basic infection prevention measures (requiring the use of personal protection equipment), policies and procedures for prompt identification and isolation of sick individuals, social distancing (prohibiting gatherings of no more than 10 people including all-hands meetings and all-hands lunches) communication and training and workplace controls that

meet standards that may be promulgated by the Center for Disease Control, Occupational Safety and Health Administration, Cal/OSHA, California Department of Public Health or applicable local public health agencies.<sup>4</sup>

The United Brotherhood of Carpenters and Carpenters International Training Fund has developed COVID-19 Training and Certification to ensure that Carpenter union members and apprentices conduct safe work practices. The Agency should require that all construction workers undergo COVID-19 Training and Certification before being allowed to conduct construction activities at the Project Site.

If the City has any questions or concerns, feel free to contact my Office.

Sincerely,



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Mitchell M. Tsai

Attorneys for Southwest Regional  
Council of Carpenters

Attached:

March 8, 2021 SWAPE Letter to Mitchell M. Tsai re Local Hire Requirements and Considerations for Greenhouse Gas Modeling (Exhibit A);

Air Quality and GHG Expert Paul Rosenfeld CV (Exhibit B); and

Air Quality and GHG Expert Matt Hagemann CV (Exhibit C).

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<sup>4</sup> See also The Center for Construction Research and Training, North America's Building Trades Unions (April 27 2020) NABTU and CPWR COVID-19 Standards for U.S. Construction Sites, available at [https://www.cpwr.com/sites/default/files/NABTU\\_CPWR\\_Standards\\_COVID-19.pdf](https://www.cpwr.com/sites/default/files/NABTU_CPWR_Standards_COVID-19.pdf); Los Angeles County Department of Public Works (2020) Guidelines for Construction Sites During COVID-19 Pandemic, available at [https://dpw.lacounty.gov/building-and-safety/docs/pw\\_guidelines-construction-sites.pdf](https://dpw.lacounty.gov/building-and-safety/docs/pw_guidelines-construction-sites.pdf).

**EXHIBIT A**



Technical Consultation, Data Analysis and  
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March 8, 2021

Mitchell M. Tsai  
155 South El Molino, Suite 104  
Pasadena, CA 91101

**Subject: Local Hire Requirements and Considerations for Greenhouse Gas Modeling**

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Dear Mr. Tsai,

Soil Water Air Protection Enterprise (“SWAPE”) is pleased to provide the following draft technical report explaining the significance of worker trips required for construction of land use development projects with respect to the estimation of greenhouse gas (“GHG”) emissions. The report will also discuss the potential for local hire requirements to reduce the length of worker trips, and consequently, reduced or mitigate the potential GHG impacts.

### Worker Trips and Greenhouse Gas Calculations

The California Emissions Estimator Model (“CalEEMod”) is a “statewide land use emissions computer model designed to provide a uniform platform for government agencies, land use planners, and environmental professionals to quantify potential criteria pollutant and greenhouse gas (GHG) emissions associated with both construction and operations from a variety of land use projects.”<sup>1</sup> CalEEMod quantifies construction-related emissions associated with land use projects resulting from off-road construction equipment; on-road mobile equipment associated with workers, vendors, and hauling; fugitive dust associated with grading, demolition, truck loading, and on-road vehicles traveling along paved and unpaved roads; and architectural coating activities; and paving.<sup>2</sup>

The number, length, and vehicle class of worker trips are utilized by CalEEMod to calculate emissions associated with the on-road vehicle trips required to transport workers to and from the Project site during construction.<sup>3</sup>

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<sup>1</sup> “California Emissions Estimator Model.” CAPCOA, 2017, available at: <http://www.aqmd.gov/caleemod/home>.

<sup>2</sup> “California Emissions Estimator Model.” CAPCOA, 2017, available at: <http://www.aqmd.gov/caleemod/home>.

<sup>3</sup> “CalEEMod User’s Guide.” CAPCOA, November 2017, available at: [http://www.aqmd.gov/docs/default-source/caleemod/01\\_user-39-s-guide2016-3-2\\_15november2017.pdf?sfvrsn=4](http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4), p. 34.

Specifically, the number and length of vehicle trips is utilized to estimate the vehicle miles travelled (“VMT”) associated with construction. Then, utilizing vehicle-class specific EMFAC 2014 emission factors, CalEEMod calculates the vehicle exhaust, evaporative, and dust emissions resulting from construction-related VMT, including personal vehicles for worker commuting.<sup>4</sup>

Specifically, in order to calculate VMT, CalEEMod multiplies the average daily trip rate by the average overall trip length (see excerpt below):

$$\text{“VMT}_d = \Sigma(\text{Average Daily Trip Rate}_i * \text{Average Overall Trip Length}_i)_n$$

Where:

$n$  = Number of land uses being modeled.”<sup>5</sup>

Furthermore, to calculate the on-road emissions associated with worker trips, CalEEMod utilizes the following equation (see excerpt below):

$$\text{“Emissions}_{\text{pollutant}} = \text{VMT} * \text{EF}_{\text{running,pollutant}}$$

Where:

$\text{Emissions}_{\text{pollutant}}$  = emissions from vehicle running for each pollutant

VMT = vehicle miles traveled

$\text{EF}_{\text{running,pollutant}}$  = emission factor for running emissions.”<sup>6</sup>

Thus, there is a direct relationship between trip length and VMT, as well as a direct relationship between VMT and vehicle running emissions. In other words, when the trip length is increased, the VMT and vehicle running emissions increase as a result. Thus, vehicle running emissions can be reduced by decreasing the average overall trip length, by way of a local hire requirement or otherwise.

## Default Worker Trip Parameters and Potential Local Hire Requirements

As previously discussed, the number, length, and vehicle class of worker trips are utilized by CalEEMod to calculate emissions associated with the on-road vehicle trips required to transport workers to and from the Project site during construction.<sup>7</sup> In order to understand how local hire requirements and associated worker trip length reductions impact GHG emissions calculations, it is important to consider the CalEEMod default worker trip parameters. CalEEMod provides recommended default values based on site-specific information, such as land use type, meteorological data, total lot acreage, project type and typical equipment associated with project type. If more specific project information is known, the user can change the default values and input project-specific values, but the California Environmental Quality Act (“CEQA”) requires that such changes be justified by substantial evidence.<sup>8</sup> The default number of construction-related worker trips is calculated by multiplying the

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<sup>4</sup> “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, available at: [http://www.aqmd.gov/docs/default-source/caleemod/02\\_appendix-a2016-3-2.pdf?sfvrsn=6](http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6), p. 14-15.

<sup>5</sup> “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, available at: [http://www.aqmd.gov/docs/default-source/caleemod/02\\_appendix-a2016-3-2.pdf?sfvrsn=6](http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6), p. 23.

<sup>6</sup> “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, available at: [http://www.aqmd.gov/docs/default-source/caleemod/02\\_appendix-a2016-3-2.pdf?sfvrsn=6](http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6), p. 15.

<sup>7</sup> “CalEEMod User’s Guide.” CAPCOA, November 2017, available at: [http://www.aqmd.gov/docs/default-source/caleemod/01\\_user-39-s-guide2016-3-2\\_15november2017.pdf?sfvrsn=4](http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4), p. 34.

<sup>8</sup> CalEEMod User Guide, available at: <http://www.caleemod.com/>, p. 1, 9.

number of pieces of equipment for all phases by 1.25, with the exception of worker trips required for the building construction and architectural coating phases.<sup>9</sup> Furthermore, the worker trip vehicle class is a 50/25/25 percent mix of light duty autos, light duty truck class 1 and light duty truck class 2, respectively.”<sup>10</sup> Finally, the default worker trip length is consistent with the length of the operational home-to-work vehicle trips.<sup>11</sup> The operational home-to-work vehicle trip lengths are:

“[B]ased on the *location* and *urbanization* selected on the project characteristic screen. These values were *supplied by the air districts or use a default average for the state*. Each district (or county) also assigns trip lengths for urban and rural settings” (emphasis added).<sup>12</sup>

Thus, the default worker trip length is based on the location and urbanization level selected by the User when modeling emissions. The below table shows the CalEEMod default rural and urban worker trip lengths by air basin (see excerpt below and Attachment A).<sup>13</sup>

<b>Worker Trip Length by Air Basin</b>		
<b>Air Basin</b>	<b>Rural (miles)</b>	<b>Urban (miles)</b>
Great Basin Valleys	16.8	10.8
Lake County	16.8	10.8
Lake Tahoe	16.8	10.8
Mojave Desert	16.8	10.8
Mountain Counties	16.8	10.8
North Central Coast	17.1	12.3
North Coast	16.8	10.8
Northeast Plateau	16.8	10.8
Sacramento Valley	16.8	10.8
Salton Sea	14.6	11
San Diego	16.8	10.8
San Francisco Bay Area	10.8	10.8
San Joaquin Valley	16.8	10.8
South Central Coast	16.8	10.8
South Coast	19.8	14.7
<b>Average</b>	<b>16.47</b>	<b>11.17</b>
<b>Minimum</b>	<b>10.80</b>	<b>10.80</b>
<b>Maximum</b>	<b>19.80</b>	<b>14.70</b>
<b>Range</b>	<b>9.00</b>	<b>3.90</b>

<sup>9</sup> “CalEEMod User’s Guide.” CAPCOA, November 2017, available at: [http://www.aqmd.gov/docs/default-source/caleemod/01\\_user-39-s-guide2016-3-2\\_15november2017.pdf?sfvrsn=4](http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4), p. 34.

<sup>10</sup> “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, available at: [http://www.aqmd.gov/docs/default-source/caleemod/02\\_appendix-a2016-3-2.pdf?sfvrsn=6](http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6), p. 15.

<sup>11</sup> “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, available at: [http://www.aqmd.gov/docs/default-source/caleemod/02\\_appendix-a2016-3-2.pdf?sfvrsn=6](http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6), p. 14.

<sup>12</sup> “Appendix A Calculation Details for CalEEMod.” CAPCOA, October 2017, available at: [http://www.aqmd.gov/docs/default-source/caleemod/02\\_appendix-a2016-3-2.pdf?sfvrsn=6](http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf?sfvrsn=6), p. 21.

<sup>13</sup> “Appendix D Default Data Tables.” CAPCOA, October 2017, available at: [http://www.aqmd.gov/docs/default-source/caleemod/05\\_appendix-d2016-3-2.pdf?sfvrsn=4](http://www.aqmd.gov/docs/default-source/caleemod/05_appendix-d2016-3-2.pdf?sfvrsn=4), p. D-84 – D-86.

As demonstrated above, default rural worker trip lengths for air basins in California vary from 10.8- to 19.8- miles, with an average of 16.47 miles. Furthermore, default urban worker trip lengths vary from 10.8- to 14.7- miles, with an average of 11.17 miles. Thus, while default worker trip lengths vary by location, default urban worker trip lengths tend to be shorter in length. Based on these trends evident in the CalEEMod default worker trip lengths, we can reasonably assume that the efficacy of a local hire requirement is especially dependent upon the urbanization of the project site, as well as the project location.

### Practical Application of a Local Hire Requirement and Associated Impact

To provide an example of the potential impact of a local hire provision on construction-related GHG emissions, we estimated the significance of a local hire provision for the Village South Specific Plan (“Project”) located in the City of Claremont (“City”). The Project proposed to construct 1,000 residential units, 100,000-SF of retail space, 45,000-SF of office space, as well as a 50-room hotel, on the 24-acre site. The Project location is classified as Urban and lies within the Los Angeles-South Coast County. As a result, the Project has a default worker trip length of 14.7 miles.<sup>14</sup> In an effort to evaluate the potential for a local hire provision to reduce the Project’s construction-related GHG emissions, we prepared an updated model, reducing all worker trip lengths to 10 miles (see Attachment B). Our analysis estimates that if a local hire provision with a 10-mile radius were to be implemented, the GHG emissions associated with Project construction would decrease by approximately 17% (see table below and Attachment C).

<b>Local Hire Provision Net Change</b>	
<b>Without Local Hire Provision</b>	
Total Construction GHG Emissions (MT CO <sub>2</sub> e)	3,623
Amortized Construction GHG Emissions (MT CO <sub>2</sub> e/year)	120.77
<b>With Local Hire Provision</b>	
Total Construction GHG Emissions (MT CO <sub>2</sub> e)	3,024
Amortized Construction GHG Emissions (MT CO <sub>2</sub> e/year)	100.80
<b>% Decrease in Construction-related GHG Emissions</b>	<b>17%</b>

As demonstrated above, by implementing a local hire provision requiring 10 mile worker trip lengths, the Project could reduce potential GHG emissions associated with construction worker trips. More broadly, any local hire requirement that results in a decreased worker trip length from the default value has the potential to result in a reduction of construction-related GHG emissions, though the significance of the reduction would vary based on the location and urbanization level of the project site.

This serves as an example of the potential impacts of local hire requirements on estimated project-level GHG emissions, though it does not indicate that local hire requirements would result in reduced construction-related GHG emission for all projects. As previously described, the significance of a local hire requirement depends on the worker trip length enforced and the default worker trip length for the project’s urbanization level and location.

<sup>14</sup> “Appendix D Default Data Tables.” CAPCOA, October 2017, available at: [http://www.aqmd.gov/docs/default-source/caleemod/05\\_appendix-d2016-3-2.pdf?sfvrsn=4](http://www.aqmd.gov/docs/default-source/caleemod/05_appendix-d2016-3-2.pdf?sfvrsn=4), p. D-85.

## Disclaimer

SWAPE has received limited discovery. Additional information may become available in the future; thus, we retain the right to revise or amend this report when additional information becomes available. Our professional services have been performed using that degree of care and skill ordinarily exercised, under similar circumstances, by reputable environmental consultants practicing in this or similar localities at the time of service. No other warranty, expressed or implied, is made as to the scope of work, work methodologies and protocols, site conditions, analytical testing results, and findings presented. This report reflects efforts which were limited to information that was reasonably accessible at the time of the work, and may contain informational gaps, inconsistencies, or otherwise be incomplete due to the unavailability or uncertainty of information obtained or provided by third parties.

Sincerely,

A handwritten signature in blue ink that reads "Matt Hagemann". The signature is fluid and cursive.

Matt Hagemann, P.G., C.Hg.

A handwritten signature in blue ink that reads "Paul Rosenfeld". The signature is fluid and cursive.

Paul E. Rosenfeld, Ph.D.

**EXHIBIT B**



## ***Paul Rosenfeld, Ph.D.***

*Principal Environmental Chemist*

**Chemical Fate and Transport & Air Dispersion Modeling**

**Risk Assessment & Remediation Specialist**

### **Education**

Ph.D. Soil Chemistry, University of Washington, 1999. Dissertation on volatile organic compound filtration.

M.S. Environmental Science, U.C. Berkeley, 1995. Thesis on organic waste economics.

B.A. Environmental Studies, U.C. Santa Barbara, 1991. Thesis on wastewater treatment.

### **Professional Experience**

Dr. Rosenfeld has over 25 years' experience conducting environmental investigations and risk assessments for evaluating impacts to human health, property, and ecological receptors. His expertise focuses on the fate and transport of environmental contaminants, human health risk, exposure assessment, and ecological restoration. Dr. Rosenfeld has evaluated and modeled emissions from unconventional oil drilling operations, oil spills, landfills, boilers and incinerators, process stacks, storage tanks, confined animal feeding operations, and many other industrial and agricultural sources. His project experience ranges from monitoring and modeling of pollution sources to evaluating impacts of pollution on workers at industrial facilities and residents in surrounding communities.

Dr. Rosenfeld has investigated and designed remediation programs and risk assessments for contaminated sites containing lead, heavy metals, mold, bacteria, particulate matter, petroleum hydrocarbons, chlorinated solvents, pesticides, radioactive waste, dioxins and furans, semi- and volatile organic compounds, PCBs, PAHs, perchlorate, asbestos, per- and poly-fluoroalkyl substances (PFOA/PFOS), unusual polymers, fuel oxygenates (MTBE), among other pollutants. Dr. Rosenfeld also has experience evaluating greenhouse gas emissions from various projects and is an expert on the assessment of odors from industrial and agricultural sites, as well as the evaluation of odor nuisance impacts and technologies for abatement of odorous emissions. As a principal scientist at SWAPE, Dr. Rosenfeld directs air dispersion modeling and exposure assessments. He has served as an expert witness and testified about pollution sources causing nuisance and/or personal injury at dozens of sites and has testified as an expert witness on more than ten cases involving exposure to air contaminants from industrial sources.

## **Professional History:**

Soil Water Air Protection Enterprise (SWAPE); 2003 to present; Principal and Founding Partner  
UCLA School of Public Health; 2007 to 2011; Lecturer (Assistant Researcher)  
UCLA School of Public Health; 2003 to 2006; Adjunct Professor  
UCLA Environmental Science and Engineering Program; 2002-2004; Doctoral Intern Coordinator  
UCLA Institute of the Environment, 2001-2002; Research Associate  
Komex H<sub>2</sub>O Science, 2001 to 2003; Senior Remediation Scientist  
National Groundwater Association, 2002-2004; Lecturer  
San Diego State University, 1999-2001; Adjunct Professor  
Anteon Corp., San Diego, 2000-2001; Remediation Project Manager  
Ogden (now Amec), San Diego, 2000-2000; Remediation Project Manager  
Bechtel, San Diego, California, 1999 – 2000; Risk Assessor  
King County, Seattle, 1996 – 1999; Scientist  
James River Corp., Washington, 1995-96; Scientist  
Big Creek Lumber, Davenport, California, 1995; Scientist  
Plumas Corp., California and USFS, Tahoe 1993-1995; Scientist  
Peace Corps and World Wildlife Fund, St. Kitts, West Indies, 1991-1993; Scientist

## **Publications:**

Remy, L.L., Clay T., Byers, V., **Rosenfeld P. E.** (2019) Hospital, Health, and Community Burden After Oil Refinery Fires, Richmond, California 2007 and 2012. *Environmental Health*. 18:48

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**Rosenfeld, P.E.**, Grey, M and Suffet, M. (2002). Compost Demonstration Project, Sacramento California Using High-Carbon Wood Ash to Control Odor at a Green Materials Composting Facility. *Integrated Waste Management Board Public Affairs Office, Publications Clearinghouse (MS-6)*, Sacramento, CA Publication #442-02-008.

**Rosenfeld, P.E.**, and C.L. Henry. (2001). Characterization of odor emissions from three different biosolids. *Water Soil and Air Pollution*. 127(1-4), 173-191.

**Rosenfeld, P.E.**, and Henry C. L., (2000). Wood ash control of odor emissions from biosolids application. *Journal of Environmental Quality*. 29, 1662-1668.

**Rosenfeld, P.E.**, C.L. Henry and D. Bennett. (2001). Wastewater dewatering polymer affect on biosolids odor emissions and microbial activity. *Water Environment Research*. 73(4), 363-367.

**Rosenfeld, P.E.**, and C.L. Henry. (2001). Activated Carbon and Wood Ash Sorption of Wastewater, Compost, and Biosolids Odorants. *Water Environment Research*, 73, 388-393.

**Rosenfeld, P.E.**, and Henry C. L., (2001). High carbon wood ash effect on biosolids microbial activity and odor. *Water Environment Research*. 131(1-4), 247-262.

Chollack, T. and **P. Rosenfeld**. (1998). Compost Amendment Handbook For Landscaping. Prepared for and distributed by the City of Redmond, Washington State.

**Rosenfeld, P. E.** (1992). The Mount Liamuiga Crater Trail. *Heritage Magazine of St. Kitts*, 3(2).

**Rosenfeld, P. E.** (1993). High School Biogas Project to Prevent Deforestation On St. Kitts. *Biomass Users Network*, 7(1).

**Rosenfeld, P. E.** (1998). Characterization, Quantification, and Control of Odor Emissions From Biosolids Application To Forest Soil. Doctoral Thesis. University of Washington College of Forest Resources.

**Rosenfeld, P. E.** (1994). Potential Utilization of Small Diameter Trees on Sierra County Public Land. Masters thesis reprinted by the Sierra County Economic Council. Sierra County, California.

**Rosenfeld, P. E.** (1991). How to Build a Small Rural Anaerobic Digester & Uses Of Biogas In The First And Third World. Bachelors Thesis. University of California.

## **Presentations:**

**Rosenfeld, P.E.**, Sutherland, A; Hesse, R.; Zapata, A. (October 3-6, 2013). Air dispersion modeling of volatile organic emissions from multiple natural gas wells in Decatur, TX. *44th Western Regional Meeting, American Chemical Society*. Lecture conducted from Santa Clara, CA.

Sok, H.L.; Waller, C.C.; Feng, L.; Gonzalez, J.; Sutherland, A.J.; Wisdom-Stack, T.; Sahai, R.K.; Hesse, R.C.; **Rosenfeld, P.E.** (June 20-23, 2010). Atrazine: A Persistent Pesticide in Urban Drinking Water. *Urban Environmental Pollution*. Lecture conducted from Boston, MA.

Feng, L.; Gonzalez, J.; Sok, H.L.; Sutherland, A.J.; Waller, C.C.; Wisdom-Stack, T.; Sahai, R.K.; La, M.; Hesse, R.C.; **Rosenfeld, P.E.** (June 20-23, 2010). Bringing Environmental Justice to East St. Louis, Illinois. *Urban Environmental Pollution*. Lecture conducted from Boston, MA.

**Rosenfeld, P.E.** (April 19-23, 2009). Perfluorooctanoic Acid (PFOA) and Perfluorooctane Sulfonate (PFOS) Contamination in Drinking Water From the Use of Aqueous Film Forming Foams (AFFF) at Airports in the United States. *2009 Ground Water Summit and 2009 Ground Water Protection Council Spring Meeting*, Lecture conducted from Tuscon, AZ.

**Rosenfeld, P.E.** (April 19-23, 2009). Cost to Filter Atrazine Contamination from Drinking Water in the United States” Contamination in Drinking Water From the Use of Aqueous Film Forming Foams (AFFF) at Airports in the United States. *2009 Ground Water Summit and 2009 Ground Water Protection Council Spring Meeting*. Lecture conducted from Tuscon, AZ.

Wu, C., Tam, L., Clark, J., **Rosenfeld, P.** (20-22 July, 2009). Dioxin and furan blood lipid concentrations in populations living near four wood treatment facilities in the United States. Brebbia, C.A. and Popov, V., eds., *Air Pollution XVII: Proceedings of the Seventeenth International Conference on Modeling, Monitoring and Management of Air Pollution*. Lecture conducted from Tallinn, Estonia.

**Rosenfeld, P. E.** (October 15-18, 2007). Moss Point Community Exposure To Contaminants From A Releasing Facility. *The 23<sup>rd</sup> Annual International Conferences on Soils Sediment and Water*. Platform lecture conducted from University of Massachusetts, Amherst MA.

**Rosenfeld, P. E.** (October 15-18, 2007). The Repeated Trespass of Tritium-Contaminated Water Into A Surrounding Community Form Repeated Waste Spills From A Nuclear Power Plant. *The 23<sup>rd</sup> Annual International Conferences on Soils Sediment and Water*. Platform lecture conducted from University of Massachusetts, Amherst MA.

**Rosenfeld, P. E.** (October 15-18, 2007). Somerville Community Exposure To Contaminants From Wood Treatment Facility Emissions. The *23<sup>rd</sup> Annual International Conferences on Soils Sediment and Water*. Lecture conducted from University of Massachusetts, Amherst MA.

**Rosenfeld P. E.** (March 2007). Production, Chemical Properties, Toxicology, & Treatment Case Studies of 1,2,3-Trichloropropane (TCP). *The Association for Environmental Health and Sciences (AEHS) Annual Meeting*. Lecture conducted from San Diego, CA.

**Rosenfeld P. E.** (March 2007). Blood and Attic Sampling for Dioxin/Furan, PAH, and Metal Exposure in Florida, Alabama. *The AEHS Annual Meeting*. Lecture conducted from San Diego, CA.

Hensley A.R., Scott, A., **Rosenfeld P.E.**, Clark, J.J.J. (August 21 – 25, 2006). Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility. *The 26th International Symposium on Halogenated Persistent Organic Pollutants – DIOXIN2006*. Lecture conducted from Radisson SAS Scandinavia Hotel in Oslo Norway.

Hensley A.R., Scott, A., **Rosenfeld P.E.**, Clark, J.J.J. (November 4-8, 2006). Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility. *APHA 134 Annual Meeting & Exposition*. Lecture conducted from Boston Massachusetts.

**Paul Rosenfeld Ph.D.** (October 24-25, 2005). Fate, Transport and Persistence of PFOA and Related Chemicals. Mealey's C8/PFOA. *Science, Risk & Litigation Conference*. Lecture conducted from The Rittenhouse Hotel, Philadelphia, PA.

**Paul Rosenfeld Ph.D.** (September 19, 2005). Brominated Flame Retardants in Groundwater: Pathways to Human Ingestion, *Toxicology and Remediation PEMA Emerging Contaminant Conference*. Lecture conducted from Hilton Hotel, Irvine California.

**Paul Rosenfeld Ph.D.** (September 19, 2005). Fate, Transport, Toxicity, And Persistence of 1,2,3-TCP. *PEMA Emerging Contaminant Conference*. Lecture conducted from Hilton Hotel in Irvine, California.

**Paul Rosenfeld Ph.D.** (September 26-27, 2005). Fate, Transport and Persistence of PDBEs. *Mealey's Groundwater Conference*. Lecture conducted from Ritz Carlton Hotel, Marina Del Ray, California.

**Paul Rosenfeld Ph.D.** (June 7-8, 2005). Fate, Transport and Persistence of PFOA and Related Chemicals. *International Society of Environmental Forensics: Focus On Emerging Contaminants*. Lecture conducted from Sheraton Oceanfront Hotel, Virginia Beach, Virginia.

**Paul Rosenfeld Ph.D.** (July 21-22, 2005). Fate Transport, Persistence and Toxicology of PFOA and Related Perfluorochemicals. *2005 National Groundwater Association Ground Water And Environmental Law Conference*. Lecture conducted from Wyndham Baltimore Inner Harbor, Baltimore Maryland.

**Paul Rosenfeld Ph.D.** (July 21-22, 2005). Brominated Flame Retardants in Groundwater: Pathways to Human Ingestion, Toxicology and Remediation. *2005 National Groundwater Association Ground Water and Environmental Law Conference*. Lecture conducted from Wyndham Baltimore Inner Harbor, Baltimore Maryland.

**Paul Rosenfeld, Ph.D.** and James Clark Ph.D. and Rob Hesse R.G. (May 5-6, 2004). Tert-butyl Alcohol Liability and Toxicology, A National Problem and Unquantified Liability. *National Groundwater Association. Environmental Law Conference*. Lecture conducted from Congress Plaza Hotel, Chicago Illinois.

**Paul Rosenfeld, Ph.D.** (March 2004). Perchlorate Toxicology. *Meeting of the American Groundwater Trust*. Lecture conducted from Phoenix Arizona.

Hagemann, M.F., **Paul Rosenfeld, Ph.D.** and Rob Hesse (2004). Perchlorate Contamination of the Colorado River. *Meeting of tribal representatives*. Lecture conducted from Parker, AZ.

**Paul Rosenfeld, Ph.D.** (April 7, 2004). A National Damage Assessment Model For PCE and Dry Cleaners. *Drycleaner Symposium. California Ground Water Association*. Lecture conducted from Radison Hotel, Sacramento, California.

**Rosenfeld, P. E.,** Grey, M., (June 2003) Two stage biofilter for biosolids composting odor control. *Seventh International In Situ And On Site Bioremediation Symposium Battelle Conference* Orlando, FL.

**Paul Rosenfeld, Ph.D.** and James Clark Ph.D. (February 20-21, 2003) Understanding Historical Use, Chemical Properties, Toxicity and Regulatory Guidance of 1,4 Dioxane. *National Groundwater Association. Southwest Focus Conference. Water Supply and Emerging Contaminants..* Lecture conducted from Hyatt Regency Phoenix Arizona.

**Paul Rosenfeld, Ph.D.** (February 6-7, 2003). Underground Storage Tank Litigation and Remediation. *California CUPA Forum*. Lecture conducted from Marriott Hotel, Anaheim California.

**Paul Rosenfeld, Ph.D.** (October 23, 2002) Underground Storage Tank Litigation and Remediation. *EPA Underground Storage Tank Roundtable*. Lecture conducted from Sacramento California.

**Rosenfeld, P.E.** and Suffet, M. (October 7- 10, 2002). Understanding Odor from Compost, *Wastewater and Industrial Processes. Sixth Annual Symposium On Off Flavors in the Aquatic Environment. International Water Association*. Lecture conducted from Barcelona Spain.

**Rosenfeld, P.E.** and Suffet, M. (October 7- 10, 2002). Using High Carbon Wood Ash to Control Compost Odor. *Sixth Annual Symposium On Off Flavors in the Aquatic Environment. International Water Association*. Lecture conducted from Barcelona Spain.

**Rosenfeld, P.E.** and Grey, M. A. (September 22-24, 2002). Biocycle Composting For Coastal Sage Restoration. *Northwest Biosolids Management Association*. Lecture conducted from Vancouver Washington..

**Rosenfeld, P.E.** and Grey, M. A. (November 11-14, 2002). Using High-Carbon Wood Ash to Control Odor at a Green Materials Composting Facility. *Soil Science Society Annual Conference*. Lecture conducted from Indianapolis, Maryland.

**Rosenfeld, P.E.** (September 16, 2000). Two stage biofilter for biosolids composting odor control. *Water Environment Federation*. Lecture conducted from Anaheim California.

**Rosenfeld, P.E.** (October 16, 2000). Wood ash and biofilter control of compost odor. *Biofest*. Lecture conducted from Ocean Shores, California.

**Rosenfeld, P.E.** (2000). Bioremediation Using Organic Soil Amendments. *California Resource Recovery Association*. Lecture conducted from Sacramento California.

**Rosenfeld, P.E.,** C.L. Henry, R. Harrison. (1998). Oat and Grass Seed Germination and Nitrogen and Sulfur Emissions Following Biosolids Incorporation With High-Carbon Wood-Ash. *Water Environment Federation 12th Annual Residuals and Biosolids Management Conference Proceedings*. Lecture conducted from Bellevue Washington.

**Rosenfeld, P.E.,** and C.L. Henry. (1999). An evaluation of ash incorporation with biosolids for odor reduction. *Soil Science Society of America*. Lecture conducted from Salt Lake City Utah.

**Rosenfeld, P.E.,** C.L. Henry, R. Harrison. (1998). Comparison of Microbial Activity and Odor Emissions from Three Different Biosolids Applied to Forest Soil. *Brown and Caldwell*. Lecture conducted from Seattle Washington.

**Rosenfeld, P.E.,** C.L. Henry. (1998). Characterization, Quantification, and Control of Odor Emissions from Biosolids Application To Forest Soil. *Biofest*. Lecture conducted from Lake Chelan, Washington.

**Rosenfeld, P.E.,** C.L. Henry, R. Harrison. (1998). Oat and Grass Seed Germination and Nitrogen and Sulfur Emissions Following Biosolids Incorporation With High-Carbon Wood-Ash. Water Environment Federation 12th Annual Residuals and Biosolids Management Conference Proceedings. Lecture conducted from Bellevue Washington.

**Rosenfeld, P.E.,** C.L. Henry, R. B. Harrison, and R. Dills. (1997). Comparison of Odor Emissions From Three Different Biosolids Applied to Forest Soil. *Soil Science Society of America*. Lecture conducted from Anaheim California.

## **Teaching Experience:**

UCLA Department of Environmental Health (Summer 2003 through 20010) Taught Environmental Health Science 100 to students, including undergrad, medical doctors, public health professionals and nurses. Course focused on the health effects of environmental contaminants.

National Ground Water Association, Successful Remediation Technologies. Custom Course in Sante Fe, New Mexico. May 21, 2002. Focused on fate and transport of fuel contaminants associated with underground storage tanks.

National Ground Water Association; Successful Remediation Technologies Course in Chicago Illinois. April 1, 2002. Focused on fate and transport of contaminants associated with Superfund and RCRA sites.

California Integrated Waste Management Board, April and May, 2001. Alternative Landfill Caps Seminar in San Diego, Ventura, and San Francisco. Focused on both prescriptive and innovative landfill cover design.

UCLA Department of Environmental Engineering, February 5, 2002. Seminar on Successful Remediation Technologies focusing on Groundwater Remediation.

University Of Washington, Soil Science Program, Teaching Assistant for several courses including: Soil Chemistry, Organic Soil Amendments, and Soil Stability.

U.C. Berkeley, Environmental Science Program Teaching Assistant for Environmental Science 10.

## **Academic Grants Awarded:**

California Integrated Waste Management Board. \$41,000 grant awarded to UCLA Institute of the Environment. Goal: To investigate effect of high carbon wood ash on volatile organic emissions from compost. 2001.

Synagro Technologies, Corona California: \$10,000 grant awarded to San Diego State University. Goal: investigate effect of biosolids for restoration and remediation of degraded coastal sage soils. 2000.

King County, Department of Research and Technology, Washington State. \$100,000 grant awarded to University of Washington: Goal: To investigate odor emissions from biosolids application and the effect of polymers and ash on VOC emissions. 1998.

Northwest Biosolids Management Association, Washington State. \$20,000 grant awarded to investigate effect of polymers and ash on VOC emissions from biosolids. 1997.

James River Corporation, Oregon: \$10,000 grant was awarded to investigate the success of genetically engineered Poplar trees with resistance to round-up. 1996.

United State Forest Service, Tahoe National Forest: \$15,000 grant was awarded to investigating fire ecology of the Tahoe National Forest. 1995.

Kellogg Foundation, Washington D.C. \$500 grant was awarded to construct a large anaerobic digester on St. Kitts in West Indies. 1993

## **Deposition and/or Trial Testimony:**

In the United States District Court For The District of New Jersey

Duarte et al, *Plaintiffs*, vs. United States Metals Refining Company et. al. *Defendant*.

Case No.: 2:17-cv-01624-ES-SCM

Rosenfeld Deposition. 6-7-2019

In the United States District Court of Southern District of Texas Galveston Division

M/T Carla Maersk, *Plaintiffs*, vs. Conti 168., Schiffahrts-GMBH & Co. Bulker KG MS “Conti Perdido”  
*Defendant*.

Case No.: 3:15-CV-00106 consolidated with 3:15-CV-00237

Rosenfeld Deposition. 5-9-2019

In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica

Carole-Taddeo-Bates et al., vs. Ifran Khan et al., Defendants

Case No.: No. BC615636

Rosenfeld Deposition, 1-26-2019

In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica

The San Gabriel Valley Council of Governments et al. vs El Adobe Apts. Inc. et al., Defendants

Case No.: No. BC646857

Rosenfeld Deposition, 10-6-2018; Trial 3-7-19

In United States District Court For The District of Colorado

Bells et al. Plaintiff vs. The 3M Company et al., Defendants

Case: No 1:16-cv-02531-RBJ

Rosenfeld Deposition, 3-15-2018 and 4-3-2018

In The District Court Of Regan County, Texas, 112<sup>th</sup> Judicial District

Phillip Bales et al., Plaintiff vs. Dow Agrosiences, LLC, et al., Defendants

Cause No 1923

Rosenfeld Deposition, 11-17-2017

In The Superior Court of the State of California In And For The County Of Contra Costa

Simons et al., Plaintiffs vs. Chevron Corporation, et al., Defendants

Cause No C12-01481

Rosenfeld Deposition, 11-20-2017

In The Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois

Martha Custer et al., Plaintiff vs. Cerro Flow Products, Inc., Defendants

Case No.: No. 0i9-L-2295

Rosenfeld Deposition, 8-23-2017

In The Superior Court of the State of California, For The County of Los Angeles

Warrn Gilbert and Penny Gilber, Plaintiff vs. BMW of North America LLC

Case No.: LC102019 (c/w BC582154)

Rosenfeld Deposition, 8-16-2017, Trail 8-28-2018

In the Northern District Court of Mississippi, Greenville Division

Brenda J. Cooper, et al., *Plaintiffs*, vs. Meritor Inc., et al., *Defendants*

Case Number: 4:16-cv-52-DMB-JVM

Rosenfeld Deposition: July 2017

In The Superior Court of the State of Washington, County of Snohomish  
Michael Davis and Julie Davis et al., Plaintiff vs. Cedar Grove Composting Inc., Defendants  
Case No.: No. 13-2-03987-5  
Rosenfeld Deposition, February 2017  
Trial, March 2017

In The Superior Court of the State of California, County of Alameda  
Charles Spain., Plaintiff vs. Thermo Fisher Scientific, et al., Defendants  
Case No.: RG14711115  
Rosenfeld Deposition, September 2015

In The Iowa District Court In And For Poweshiek County  
Russell D. Winburn, et al., Plaintiffs vs. Doug Hoksbergen, et al., Defendants  
Case No.: LALA002187  
Rosenfeld Deposition, August 2015

In The Iowa District Court For Wapello County  
Jerry Dovico, et al., Plaintiffs vs. Valley View Sine LLC, et al., Defendants  
Law No.: LALA105144 - Division A  
Rosenfeld Deposition, August 2015

In The Iowa District Court For Wapello County  
Doug Pauls, et al., et al., Plaintiffs vs. Richard Warren, et al., Defendants  
Law No.: LALA105144 - Division A  
Rosenfeld Deposition, August 2015

In The Circuit Court of Ohio County, West Virginia  
Robert Andrews, et al. v. Antero, et al.  
Civil Action NO. 14-C-30000  
Rosenfeld Deposition, June 2015

In The Third Judicial District County of Dona Ana, New Mexico  
Betty Gonzalez, et al. Plaintiffs vs. Del Oro Dairy, Del Oro Real Estate LLC, Jerry Settles and Deward  
DeRuyter, Defendants  
Rosenfeld Deposition: July 2015

In The Iowa District Court For Muscatine County  
Laurie Freeman et. al. Plaintiffs vs. Grain Processing Corporation, Defendant  
Case No 4980  
Rosenfeld Deposition: May 2015

In the Circuit Court of the 17<sup>th</sup> Judicial Circuit, in and For Broward County, Florida  
Walter Hinton, et. al. Plaintiff, vs. City of Fort Lauderdale, Florida, a Municipality, Defendant.  
Case Number CACE07030358 (26)  
Rosenfeld Deposition: December 2014

In the United States District Court Western District of Oklahoma  
Tommy McCarty, et al., Plaintiffs, v. Oklahoma City Landfill, LLC d/b/a Southeast Oklahoma City  
Landfill, et al. Defendants.  
Case No. 5:12-cv-01152-C  
Rosenfeld Deposition: July 2014

In the County Court of Dallas County Texas  
Lisa Parr et al, *Plaintiff*, vs. Aruba et al, *Defendant*.  
Case Number cc-11-01650-E  
Rosenfeld Deposition: March and September 2013  
Rosenfeld Trial: April 2014

In the Court of Common Pleas of Tuscarawas County Ohio  
John Michael Abicht, et al., *Plaintiffs*, vs. Republic Services, Inc., et al., *Defendants*  
Case Number: 2008 CT 10 0741 (Cons. w/ 2009 CV 10 0987)  
Rosenfeld Deposition: October 2012

In the United States District Court of Southern District of Texas Galveston Division  
Kyle Cannon, Eugene Donovan, Genaro Ramirez, Carol Sassler, and Harvey Walton, each Individually and on behalf of those similarly situated, *Plaintiffs*, vs. BP Products North America, Inc., *Defendant*.  
Case 3:10-cv-00622  
Rosenfeld Deposition: February 2012  
Rosenfeld Trial: April 2013

In the Circuit Court of Baltimore County Maryland  
Philip E. Cvach, II et al., *Plaintiffs* vs. Two Farms, Inc. d/b/a Royal Farms, Defendants  
Case Number: 03-C-12-012487 OT  
Rosenfeld Deposition: September 2013

**EXHIBIT C**



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**Matthew F. Hagemann, P.G., C.Hg., QSD, QSP**

**Geologic and Hydrogeologic Characterization  
Industrial Stormwater Compliance  
Investigation and Remediation Strategies  
Litigation Support and Testifying Expert  
CEQA Review**

**Education:**

M.S. Degree, Geology, California State University Los Angeles, Los Angeles, CA, 1984.

B.A. Degree, Geology, Humboldt State University, Arcata, CA, 1982.

**Professional Certifications:**

California Professional Geologist

California Certified Hydrogeologist

Qualified SWPPP Developer and Practitioner

**Professional Experience:**

Matt has 25 years of experience in environmental policy, assessment and remediation. He spent nine years with the U.S. EPA in the RCRA and Superfund programs and served as EPA's Senior Science Policy Advisor in the Western Regional Office where he identified emerging threats to groundwater from perchlorate and MTBE. While with EPA, Matt also served as a Senior Hydrogeologist in the oversight of the assessment of seven major military facilities undergoing base closure. He led numerous enforcement actions under provisions of the Resource Conservation and Recovery Act (RCRA) while also working with permit holders to improve hydrogeologic characterization and water quality monitoring.

Matt has worked closely with U.S. EPA legal counsel and the technical staff of several states in the application and enforcement of RCRA, Safe Drinking Water Act and Clean Water Act regulations. Matt has trained the technical staff in the States of California, Hawaii, Nevada, Arizona and the Territory of Guam in the conduct of investigations, groundwater fundamentals, and sampling techniques.

Positions Matt has held include:

- Founding Partner, Soil/Water/Air Protection Enterprise (SWAPE) (2003 – present);
- Geology Instructor, Golden West College, 2010 – 2014;
- Senior Environmental Analyst, Komex H2O Science, Inc. (2000 -- 2003);

- Executive Director, Orange Coast Watch (2001 – 2004);
- Senior Science Policy Advisor and Hydrogeologist, U.S. Environmental Protection Agency (1989–1998);
- Hydrogeologist, National Park Service, Water Resources Division (1998 – 2000);
- Adjunct Faculty Member, San Francisco State University, Department of Geosciences (1993 – 1998);
- Instructor, College of Marin, Department of Science (1990 – 1995);
- Geologist, U.S. Forest Service (1986 – 1998); and
- Geologist, Dames & Moore (1984 – 1986).

**Senior Regulatory and Litigation Support Analyst:**

With SWAPE, Matt’s responsibilities have included:

- Lead analyst and testifying expert in the review of over 100 environmental impact reports since 2003 under CEQA that identify significant issues with regard to hazardous waste, water resources, water quality, air quality, Valley Fever, greenhouse gas emissions, and geologic hazards. Make recommendations for additional mitigation measures to lead agencies at the local and county level to include additional characterization of health risks and implementation of protective measures to reduce worker exposure to hazards from toxins and Valley Fever.
- Stormwater analysis, sampling and best management practice evaluation at industrial facilities.
- Manager of a project to provide technical assistance to a community adjacent to a former Naval shipyard under a grant from the U.S. EPA.
- Technical assistance and litigation support for vapor intrusion concerns.
- Lead analyst and testifying expert in the review of environmental issues in license applications for large solar power plants before the California Energy Commission.
- Manager of a project to evaluate numerous formerly used military sites in the western U.S.
- Manager of a comprehensive evaluation of potential sources of perchlorate contamination in Southern California drinking water wells.
- Manager and designated expert for litigation support under provisions of Proposition 65 in the review of releases of gasoline to sources drinking water at major refineries and hundreds of gas stations throughout California.
- Expert witness on two cases involving MTBE litigation.
- Expert witness and litigation support on the impact of air toxins and hazards at a school.
- Expert witness in litigation at a former plywood plant.

With Komex H2O Science Inc., Matt’s duties included the following:

- Senior author of a report on the extent of perchlorate contamination that was used in testimony by the former U.S. EPA Administrator and General Counsel.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of MTBE use, research, and regulation.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of perchlorate use, research, and regulation.
- Senior researcher in a study that estimates nationwide costs for MTBE remediation and drinking water treatment, results of which were published in newspapers nationwide and in testimony against provisions of an energy bill that would limit liability for oil companies.
- Research to support litigation to restore drinking water supplies that have been contaminated by MTBE in California and New York.

- Expert witness testimony in a case of oil production-related contamination in Mississippi.
- Lead author for a multi-volume remedial investigation report for an operating school in Los Angeles that met strict regulatory requirements and rigorous deadlines.

- Development of strategic approaches for cleanup of contaminated sites in consultation with clients and regulators.

### **Executive Director:**

As Executive Director with Orange Coast Watch, Matt led efforts to restore water quality at Orange County beaches from multiple sources of contamination including urban runoff and the discharge of wastewater. In reporting to a Board of Directors that included representatives from leading Orange County universities and businesses, Matt prepared issue papers in the areas of treatment and disinfection of wastewater and control of the discharge of grease to sewer systems. Matt actively participated in the development of countywide water quality permits for the control of urban runoff and permits for the discharge of wastewater. Matt worked with other nonprofits to protect and restore water quality, including Surfrider, Natural Resources Defense Council and Orange County CoastKeeper as well as with business institutions including the Orange County Business Council.

### **Hydrogeology:**

As a Senior Hydrogeologist with the U.S. Environmental Protection Agency, Matt led investigations to characterize and cleanup closing military bases, including Mare Island Naval Shipyard, Hunters Point Naval Shipyard, Treasure Island Naval Station, Alameda Naval Station, Moffett Field, Mather Army Airfield, and Sacramento Army Depot. Specific activities were as follows:

- Led efforts to model groundwater flow and contaminant transport, ensured adequacy of monitoring networks, and assessed cleanup alternatives for contaminated sediment, soil, and groundwater.
- Initiated a regional program for evaluation of groundwater sampling practices and laboratory analysis at military bases.
- Identified emerging issues, wrote technical guidance, and assisted in policy and regulation development through work on four national U.S. EPA workgroups, including the Superfund Groundwater Technical Forum and the Federal Facilities Forum.

At the request of the State of Hawaii, Matt developed a methodology to determine the vulnerability of groundwater to contamination on the islands of Maui and Oahu. He used analytical models and a GIS to show zones of vulnerability, and the results were adopted and published by the State of Hawaii and County of Maui.

As a hydrogeologist with the EPA Groundwater Protection Section, Matt worked with provisions of the Safe Drinking Water Act and NEPA to prevent drinking water contamination. Specific activities included the following:

- Received an EPA Bronze Medal for his contribution to the development of national guidance for the protection of drinking water.
- Managed the Sole Source Aquifer Program and protected the drinking water of two communities through designation under the Safe Drinking Water Act. He prepared geologic reports, conducted public hearings, and responded to public comments from residents who were very concerned about the impact of designation.

- Reviewed a number of Environmental Impact Statements for planned major developments, including large hazardous and solid waste disposal facilities, mine reclamation, and water transfer.

Matt served as a hydrogeologist with the RCRA Hazardous Waste program. Duties were as follows:

- Supervised the hydrogeologic investigation of hazardous waste sites to determine compliance with Subtitle C requirements.
- Reviewed and wrote "part B" permits for the disposal of hazardous waste.
- Conducted RCRA Corrective Action investigations of waste sites and led inspections that formed the basis for significant enforcement actions that were developed in close coordination with U.S. EPA legal counsel.
- Wrote contract specifications and supervised contractor's investigations of waste sites.

With the National Park Service, Matt directed service-wide investigations of contaminant sources to prevent degradation of water quality, including the following tasks:

- Applied pertinent laws and regulations including CERCLA, RCRA, NEPA, NRDA, and the Clean Water Act to control military, mining, and landfill contaminants.
- Conducted watershed-scale investigations of contaminants at parks, including Yellowstone and Olympic National Park.
- Identified high-levels of perchlorate in soil adjacent to a national park in New Mexico and advised park superintendent on appropriate response actions under CERCLA.
- Served as a Park Service representative on the Interagency Perchlorate Steering Committee, a national workgroup.
- Developed a program to conduct environmental compliance audits of all National Parks while serving on a national workgroup.
- Co-authored two papers on the potential for water contamination from the operation of personal watercraft and snowmobiles, these papers serving as the basis for the development of nation-wide policy on the use of these vehicles in National Parks.
- Contributed to the Federal Multi-Agency Source Water Agreement under the Clean Water Action Plan.

**Policy:**

Served senior management as the Senior Science Policy Advisor with the U.S. Environmental Protection Agency, Region 9. Activities included the following:

- Advised the Regional Administrator and senior management on emerging issues such as the potential for the gasoline additive MTBE and ammonium perchlorate to contaminate drinking water supplies.
- Shaped EPA's national response to these threats by serving on workgroups and by contributing to guidance, including the Office of Research and Development publication, *Oxygenates in Water: Critical Information and Research Needs*.
- Improved the technical training of EPA's scientific and engineering staff.
- Earned an EPA Bronze Medal for representing the region's 300 scientists and engineers in negotiations with the Administrator and senior management to better integrate scientific principles into the policy-making process.
- Established national protocol for the peer review of scientific documents.

### **Geology:**

With the U.S. Forest Service, Matt led investigations to determine hillslope stability of areas proposed for timber harvest in the central Oregon Coast Range. Specific activities were as follows:

- Mapped geology in the field, and used aerial photographic interpretation and mathematical models to determine slope stability.
- Coordinated his research with community members who were concerned with natural resource protection.
- Characterized the geology of an aquifer that serves as the sole source of drinking water for the city of Medford, Oregon.

As a consultant with Dames and Moore, Matt led geologic investigations of two contaminated sites (later listed on the Superfund NPL) in the Portland, Oregon, area and a large hazardous waste site in eastern Oregon. Duties included the following:

- Supervised year-long effort for soil and groundwater sampling.
- Conducted aquifer tests.
- Investigated active faults beneath sites proposed for hazardous waste disposal.

### **Teaching:**

From 1990 to 1998, Matt taught at least one course per semester at the community college and university levels:

- At San Francisco State University, held an adjunct faculty position and taught courses in environmental geology, oceanography (lab and lecture), hydrogeology, and groundwater contamination.
- Served as a committee member for graduate and undergraduate students.
- Taught courses in environmental geology and oceanography at the College of Marin.

Matt taught physical geology (lecture and lab and introductory geology at Golden West College in Huntington Beach, California from 2010 to 2014.

### **Invited Testimony, Reports, Papers and Presentations:**

**Hagemann, M.F.**, 2008. Disclosure of Hazardous Waste Issues under CEQA. Presentation to the Public Environmental Law Conference, Eugene, Oregon.

**Hagemann, M.F.**, 2008. Disclosure of Hazardous Waste Issues under CEQA. Invited presentation to U.S. EPA Region 9, San Francisco, California.

**Hagemann, M.F.**, 2005. Use of Electronic Databases in Environmental Regulation, Policy Making and Public Participation. Brownfields 2005, Denver, Colorado.

**Hagemann, M.F.**, 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in Nevada and the Southwestern U.S. Presentation to a meeting of the American Groundwater Trust, Las Vegas, NV (served on conference organizing committee).

**Hagemann, M.F.**, 2004. Invited testimony to a California Senate committee hearing on air toxins at schools in Southern California, Los Angeles.

Brown, A., Farrow, J., Gray, A. and **Hagemann, M.**, 2004. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to the Ground Water and Environmental Law Conference, National Groundwater Association.

**Hagemann, M.F.**, 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in Arizona and the Southwestern U.S. Presentation to a meeting of the American Groundwater Trust, Phoenix, AZ (served on conference organizing committee).

**Hagemann, M.F.**, 2003. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in the Southwestern U.S. Invited presentation to a special committee meeting of the National Academy of Sciences, Irvine, CA.

**Hagemann, M.F.**, 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a tribal EPA meeting, Pechanga, CA.

**Hagemann, M.F.**, 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a meeting of tribal representatives, Parker, AZ.

**Hagemann, M.F.**, 2003. Impact of Perchlorate on the Colorado River and Associated Drinking Water Supplies. Invited presentation to the Inter-Tribal Meeting, Torres Martinez Tribe.

**Hagemann, M.F.**, 2003. The Emergence of Perchlorate as a Widespread Drinking Water Contaminant. Invited presentation to the U.S. EPA Region 9.

**Hagemann, M.F.**, 2003. A Deductive Approach to the Assessment of Perchlorate Contamination. Invited presentation to the California Assembly Natural Resources Committee.

**Hagemann, M.F.**, 2003. Perchlorate: A Cold War Legacy in Drinking Water. Presentation to a meeting of the National Groundwater Association.

**Hagemann, M.F.**, 2002. From Tank to Tap: A Chronology of MTBE in Groundwater. Presentation to a meeting of the National Groundwater Association.

**Hagemann, M.F.**, 2002. A Chronology of MTBE in Groundwater and an Estimate of Costs to Address Impacts to Groundwater. Presentation to the annual meeting of the Society of Environmental Journalists.

**Hagemann, M.F.**, 2002. An Estimate of the Cost to Address MTBE Contamination in Groundwater (and Who Will Pay). Presentation to a meeting of the National Groundwater Association.

**Hagemann, M.F.**, 2002. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to a meeting of the U.S. EPA and State Underground Storage Tank Program managers.

**Hagemann, M.F.**, 2001. From Tank to Tap: A Chronology of MTBE in Groundwater. Unpublished report.

**Hagemann, M.F.**, 2001. Estimated Cleanup Cost for MTBE in Groundwater Used as Drinking Water. Unpublished report.

**Hagemann, M.F.**, 2001. Estimated Costs to Address MTBE Releases from Leaking Underground Storage Tanks. Unpublished report.

**Hagemann, M.F.**, and VanMouwerik, M., 1999. Potential Water Quality Concerns Related to Snowmobile Usage. Water Resources Division, National Park Service, Technical Report.

VanMouwerik, M. and **Hagemann, M.F.** 1999, Water Quality Concerns Related to Personal Watercraft Usage. Water Resources Division, National Park Service, Technical Report.

**Hagemann, M.F.**, 1999, Is Dilution the Solution to Pollution in National Parks? The George Wright Society Biannual Meeting, Asheville, North Carolina.

**Hagemann, M.F.**, 1997, The Potential for MTBE to Contaminate Groundwater. U.S. EPA Superfund Groundwater Technical Forum Annual Meeting, Las Vegas, Nevada.

**Hagemann, M.F.**, and Gill, M., 1996, Impediments to Intrinsic Remediation, Moffett Field Naval Air Station, Conference on Intrinsic Remediation of Chlorinated Hydrocarbons, Salt Lake City.

**Hagemann, M.F.**, Fukunaga, G.L., 1996, The Vulnerability of Groundwater to Anthropogenic Contaminants on the Island of Maui, Hawaii. Hawaii Water Works Association Annual Meeting, Maui, October 1996.

**Hagemann, M. F.**, Fukanaga, G. L., 1996, Ranking Groundwater Vulnerability in Central Oahu, Hawaii. Proceedings, Geographic Information Systems in Environmental Resources Management, Air and Waste Management Association Publication VIP-61.

**Hagemann, M.F.**, 1994. Groundwater Characterization and Cleanup at Closing Military Bases in California. Proceedings, California Groundwater Resources Association Meeting.

**Hagemann, M.F.** and Sabol, M.A., 1993. Role of the U.S. EPA in the High Plains States Groundwater Recharge Demonstration Program. Proceedings, Sixth Biennial Symposium on the Artificial Recharge of Groundwater.

**Hagemann, M.F.**, 1993. U.S. EPA Policy on the Technical Impracticability of the Cleanup of DNAPL-contaminated Groundwater. California Groundwater Resources Association Meeting.

**Hagemann, M.F.**, 1992. Dense Nonaqueous Phase Liquid Contamination of Groundwater: An Ounce of Prevention... Proceedings, Association of Engineering Geologists Annual Meeting, v. 35.

**Other Experience:**

Selected as subject matter expert for the California Professional Geologist licensing examination, 2009-2011.